

The Civil Disobedience Movement 1930—34.

A

Note on the general measures taken
to deal with the movement.



PREFATORY NOTE.

This volume has been compiled from official records with a view to give a brief summary of the measure taken to deal with the civil disobedience movement and of the effects of the general policy followed by Government in suppressing it. It does not purport to trace the course of the movement nor to give a narrative of the events connected with it, as, for official purposes, a sufficient record exists elsewhere; in particular, in the confidential periodical appreciations of the political situation telegraphed to the Secretary of State for the information of the Dominions and communicated to local Governments.

The important letters and telegrams issued by the Government of India in connection with the movement are printed in Appendix II and the Ordinances promulgated by the Governor General are reproduced in Appendix III.

CONTENTS.

	PARAGRAPH.
The object and origin of the movement (1930)	1—3
Publicity work by the Government of India	4
Action taken to deal with unlawful bodies	5
Institution of censorship	6
Control of the Press	7
Special powers to deal with picketing and intimidation	8
Special powers to deal with refusal of rent and certain other dues	9 and 11
Non-official efforts at peace	10
The Delhi Settlement (1931)	12
Subsequent developments	13—15
Action taken to deal with the situation in the U. P. and the N. W. F. P.	16—17
Resumption of civil disobedience (1932)	18
Promulgation of certain further Ordinances	19—20
Policy followed in dealing with the revived movement	21
Enquiry into state of public feeling	22
The Criminal Law Amendment Act, 1932 and Special provincial enactments	23
Measures to stop financial aid to the movement	24
Draft unlawful Movements Ordinance	25
Limitations on use of Criminal Law Amendment Act, 1908	26
Government Servants and the civil disobedience movement	27
Prohibition of Congress Sessions	28—29
Civil disobedience prisoners	30
The movement in 1933-34	31—32
The Criminal Law Amendment Act, 1935	33
	PAGE.
APPENDIX I.—Congress Resolution for Independence Day	29-30
APPENDIX II.—Important orders issued by the Government of India in connection with the civil disobedience movement	31—94
APPENDIX III.—Ordinances promulgated to deal with the civil disobedience movement	95—187
Index to Note	189—193

CONFIDENTIAL.

THE CIVIL DISOBEDIENCE MOVEMENT.

Congress organized the civil disobedience movement in pursuance of the independence resolution passed at the Lahore session in December 1929. That resolution* defined their objective as complete independence, and urged Congressmen to devote their exclusive attention to the attainment of this goal. The resolution finally issued on behalf of the Congress Working Committee and intended for adoption by public meetings on "Independence Day" will be found in Appendix I to this Note.

The position as seen by the Government of India (H. D. circular No. 113-Poll., dated 30th January 1930) was that the resolution authorised the All-India Congress Committee, whenever it deemed fit, to launch a programme of civil disobedience, including the non-payment of taxes, whether in selected areas or otherwise, and under such safeguards as it might consider necessary, and that once the ground had been prepared by propaganda there would be such movements as the boycotts of foreign cloth and liquor, possibly involving intimidation and picketing, non-payment of rent and taxes, and endeavours to promote railway or industrial strikes. As anticipated, the chief activities of the civil disobedience movement were manifested on the following lines :—

- (1) Widespread defiance of law.
- (2) Non-payment of taxes and land revenue.
- (3) Boycott of Government and village servants.
- (4) Boycott of British goods.
- (5) Boycott of liquor shops.
- (6) The seducing of troops and police from loyalty to Government.
- (7) Subversive propaganda.

The possibility of the earlier forms of civil disobedience following the Satyagraha model, by offering large numbers of persons for arrest

*"This Congress therefore in pursuance of the resolution, passed at its session at Calcutta last year, declares that the word 'Swaraj' in article one of the Congress constitution shall mean complete independence and further declares the entire scheme of the Nehru Committee's Report to have lapsed, and hopes that all Congressmen will henceforth devote their exclusive attention to the attainment of complete independence for India.

As a preliminary step towards organising a campaign for independence and in order to make the Congress policy as consistent as possible with the change of creed, this Congress resolves upon a complete boycott of the central and provincial legislatures and committees constituted by Government and calls upon Congressmen and others taking part in the national movement to abstain from participating directly or indirectly in future elections, and directs the present Congress members of the legislatures and committees to resign their seats.

This Congress appeals to the nation zealously to prosecute the constructive programme of the Congress, and authorises the All-India Congress Committee, whenever it deems fit, to launch upon a programme of civil disobedience including non-payment of taxes, whether in selected areas or otherwise, and under such safeguards as it may consider necessary."

on some technical offence, was considered probable and orders on the subject issued to all local Governments in the H. D. letter No. 344, dated the 26th March 1930 (File No. 213/30).

2. In the beginning Government used the powers available under the ordinary law but it soon became necessary to take special powers to deal with particular manifestations and emergencies as they arose. This was done by means of Ordinances (F. 3/7/1931-Poll.).

The policy adopted by Government to combat and defeat the movement was to deal firmly with the leaders and the various manifestations of the movement to the fullest extent possible under the provisions of the ordinary law and to supplement it by taking special powers to deal with such manifestations with which the existing law proved inadequate to cope (H. D. circular letter No. 113-Poll., dated 30th January 1930, in File No. 98/1930-Poll.).

Origin of
campaign.

3. The movement was inaugurated with an announcement by Mr. Gandhi in a letter to His Excellency the Viceroy, dated the 4th March 1930, that he intended to break the salt laws. Beyond stating that he would start off from his Ashram on the 11th March, he gave no details of his plans and it was presumed that he would proceed on foot with about a hundred volunteers to a destination in the Kaira district on a journey of about five days. The question whether his march should be prohibited was considered, but it was clear that so long as it was peacefully conducted there was no provision of the law under which action could be taken to stop the march. The possibility of action under section 117 of the Indian Penal Code was considered, but not pursued, since that section could be employed more effectively after action had been taken to break the law, when it could be shown that the matter had passed from the sphere of words, to that of action, and further because the offence under section 117 being bailable, the institution of proceedings under it would not stop the march. It was contemplated that as soon as Mr. Gandhi committed a breach of the salt law he should be arrested, tried expeditiously under section 47 of the Salt Act and given the maximum sentence of six months imprisonment. His conviction simultaneously under section 117 of the I. P. C. was also contemplated. The Bombay Government were doubtful, in view of the excitement and demonstrations aroused by the march, of the wisdom of permitting Mr. Gandhi to continue at liberty, but the Government of India still did not consider that there was any necessity for his immediate arrest, and felt that there were strong grounds for permitting him to continue his march (which was changed for a destination involving a journey of 20 instead of 5 days) unmolested. The Government of India were of opinion that it would be possible to neutralise the practical effect of the march by propaganda and by confiscating any salt manufactured and the implements used in the process. It was recognised that this procedure might lead to affrays and prove a strain on the resources of the police (F. 247/II/30).

As a result however of the breaking of the salt laws and contemplated further raids on salt works it was later decided that the general situation created made it impossible to permit Mr. Gandhi to continue at liberty and it was decided finally to intern him in jail in the Bombay Presidency under the Bombay State Prisoners Regulation of 1827. He was accordingly arrested on the 5th May shortly before the projected raid on the Dharsana salt mines. (F. 257/VIII/30).

Local Governments were given a free hand to institute prosecutions against any persons whose political importance was primarily provincial but were required to obtain the orders of the Government of India before taking action against persons of all-India importance, *e.g.*, Mr. Gandhi or Pandit Jawahar Lal Nehru (H. D. circular letter of the 30th January 1930). These orders continued in force during the first phase of the civil disobedience movement up to the settlement reached with Congress on the 5th March 1931. Prosecution of leaders.

4. Vigorous measures were taken from the onset to organise a comprehensive system of publicity and counter-propaganda. (H. D. letters to local Governments and Administrations, No. D-1018-Poll., dated 15th May 1930 and No. D-4319-Poll., dated 21st August 1930, in File No. 5/X/31-Poll., printed). In pursuance of the scheme outlined in these letters, a Sub-Committee of the Executive Council was specially formed for publicity and propaganda and under its direction local Governments were furnished with brief "Notes" indicating the lines of propaganda on various subjects; *i.e.*, the Salt Tax, Forest Law, etc. Publicity propaganda.

Action was also taken to issue prompt contradictions by means of a systematic output of official communiqués in regard to mis-statements or allegations made by Congress. (File No. 5/35/1931-Poll.). In addition, propaganda work briefly included—

- (a) a daily telegram to local Governments, giving reports of important occurrences,
- (b) weekly summaries of the situation to local Governments and District Officers. This was also published,
- (c) organization of official newspapers or bulletins by local Governments at headquarters and in the Districts,
- (d) organization and encouragement of Aman Sabhas, loyalist Committees and Defence Associations, and
- (e) issue of leaflets, officially in certain cases, and over private signatures or anonymously in others.

Certain steps were also taken to arrange for publicity outside India, by furnishing the India Office and the British Library of Information, New York, with material. A fortnightly telegram on the political situation was also sent to the Secretary of State for the information of the Dominions. (The telegram continues in the shape of a monthly appreciation).

Action
against
unlawful
bodies.

5. Local Governments were at first required to inform the Government of India of any intention to take action under the Criminal Law Amendment Act of 1908. A few weeks after the commencement of the civil disobedience movement, however, *i.e.*, in May 1930, it was found that despite action to arrest some of the principal leaders, open defiance of Government and provocative processions were on the increase. After consulting local Governments orders were issued in the H. D. circular telegram No. 1828-S., dated the 4/5th June 1930 (File No. 257/III/1930) giving them a free hand to take action wherever necessary against "War Committees", "Naujawan Bharat Sabha Committees" and similar bodies behind the Congress organization.

The
Unlawful
Association
Ordinance
1930 IX of
1930.

On the 7th June 1930, the All-India Congress Committee passed a resolution which aimed at sapping the loyalty of Indians in the Police and Military services (F. No. 257/III/30-Poll.). In view of this development the Working Committee of Congress was declared unlawful under the Criminal Law Amendment Act, 1908. The policy of the Government of India in dealing with the Committee, which had as its main object the prevention of the Committee from functioning as the directing and controlling agency of the civil disobedience movement, was laid down in a circular telegram to local Governments No. 2998-S., dated the 5th September 1930. The Criminal Law Amendment Act of 1908 was, however, found to be defective in dealing with unlawful organizations. The movement had been in force for six months and organized breaches of the law continued unabated with considerable loss of life and property. In some parts of the country, and more particularly in the districts of Gujerat, associations had established their headquarters in towns and villages from where the supporters of the civil disobedience movement carried on their activities and persuaded the ignorant to defy the law and refuse payment of Government dues. An examination of the position showed that the provisions of the Criminal Law Amendment Act of 1908 were inadequate as they lacked power enabling possession to be taken of buildings and other property used for the purposes of an association declared to be illegal. It was therefore, decided to take special powers for the occupation of immovable property, and for the forfeiture in certain circumstances of movable property, used for the purpose of any association declared to be unlawful under the Act. The Unlawful Association Ordinance was accordingly promulgated on the 10th October 1930. It proved of considerable value and its provisions were later incorporated in the Criminal Law Amendment Act of 1932. The Government of India addressed a circular letter to local Governments (No. 7923/30/Poll., dated the 10th October 1930) on the subject of the application of the provisions of this ordinance and generally as to its administration.

Censorship of
correspondence.

6. At the onset of the movement it was considered desirable to ascertain, as far as possible, in advance the plans and action taken by Congress to propagate their unlawful activities. The Government of

India accordingly issued instructions to local Governments that orders should be issued under section 26 of the Post Office Act (File No. 21/XIII/30-Poll.) authorising interception of the correspondence of all members of the Working Committee and also Presidents of Provincial Congress Committees or such other persons whose correspondence was likely to furnish information. Similar action under section 5 of the Telegraph Act was taken in respect of the telegraphic correspondence of these persons.

7. On various occasions, since the repeal, in 1922, of the Press Act of 1910, the evil effects of writings in the Press in promoting the spirit of revolution and stirring up extreme hatred against Government were brought to notice by local Governments. Prosecutions from time to time in the worst cases provided only a partial check and proved ineffective to control the ceaseless output of extremely seditious and revolutionary propaganda. The situation was much aggravated by the inauguration of the civil disobedience movement, which though professedly non-violent, rapidly developed into violent resistance to constituted authority. The riots that had occurred at Calcutta and Karachi, the armed outbreak at Chittagong and grave disturbances at Peshawar stood out clearly as the results of the spirit of revolution fostered by the civil disobedience movement which was promoted by writings in the press calculated to incite to violent and revolutionary action. To curb the press it was decided to revive the powers of the Press Act of 1910 with certain additional provisions to deal with—

- (a) encouragement of or incitement to any no-rent or no-tax campaign,
- (b) inducing public servants not to discharge their duties properly or to resign,
- (c) prejudicing recruitment to or the training discipline or administration of any of His Majesty's forces or the Police, and
- (d) the promotion of feelings of enmity or hatred between different classes of His Majesty's subject.

The powers referred to above were brought into operation by the Indian Press Ordinance No. II of 1930, which was promulgated on the 27th April 1930. (File No. 503/I/1930-Poll.).

Indian Press
Ordinance II
of 1930.

Some little time later, a deputation waited upon His Excellency the Viceroy and in view of the difficulties they represented, a circular letter was addressed to local Governments laying down certain general principles for the administration of the powers the Ordinance conferred, so as to mitigate hardship but without in any way interfering with the attainment of the objects it was promulgated to achieve (*vide* H. D. letter No. S.-1080, dated the 8th July 1930).

To evade the provisions of the Ordinance, Congress adopted the device of issuing periodicals, daily bulletins or news-sheets, the object of which was the dissemination of malicious abuse of Government, alarmist or false rumours and misrepresentations, grossly seditious

The Un-
authorised
News-sheets

and News-
papers
Ordinance,
VII of 1930.

matter, and unscrupulous propaganda in favour of the civil disobedience movement. Government decided to check this by taking powers to forfeit copies of any news-sheets and newspapers which were not compiled under the provisions of the law and also to forfeit the machines, other than declared presses, on which such bulletins or news-sheets were produced. The Unauthorised News-sheets and Newspapers Ordinance was accordingly promulgated on the 2nd July 1930 (File No. 503/III/1930-Poll.), to remain in force for the duration of the Press Ordinance which it supplemented. These two ordinances expired on the 26th October 1930. Very soon after the lapse of these ordinances the tone of the press deteriorated, many newspapers again resuming the policy of consistently encouraging civil disobedience, thereby fostering conditions of disorder, while others which had suspended publication while the ordinances were in force, revived and resumed their undesirable activities.

The Indian
Press and
Unauthorised
News-sheets
and News-
papers
Ordinance,
X of 1930.

In enabling Government to control and check the civil disobedience movement, the Press Ordinance did more perhaps than any other single measure. As supplemented by the Unauthorised News-sheets and Newspapers Ordinance, it stopped the widespread dissemination through the press of seditious and inflammatory matter: checked the spread of alarmist and false rumours and seriously hampered the movement in its use of the most effective agency of propaganda.

The Government of India in agreement with local Governments recognised the necessity of the renewal of the powers conferred by these two ordinances, being satisfied of the evils which followed their withdrawal for a brief period. The Indian Press and Unauthorised News-sheets and Newspapers Ordinance, 1930 (X of 1930) was accordingly promulgated on the 23rd December 1930. The Government of India at the same time laid down the policy which should be followed in administering the Ordinance in their circular letter No. S-115-Poll., dated the 14th January 1931 (File No. 4/36/1931-Poll.). This ordinance continued in operation till it was withdrawn on the conclusion of the Delhi Settlement in March 1931.

Action taken
to deal with
subversive
activities i.e.
Boycott, in-
cluding
intimidation
and picket-
ing, no-tax
and no-rent
campaign.

8. From the beginning of the civil disobedience movement, it had been part of the programme of the Congress to use for various purposes the device of picketing (F. 219/1930-Poll. and F. 503/II/1930-Poll.). Picketing and other forms of molestation and intimidation were employed for the purpose of preventing the sale of foreign goods or of liquor; for bringing pressure to bear on Government servants to resign their posts or fail in their duty, subjecting them and their relatives to threats of injury to life or property, organised attempts being made to refuse them necessary supplies, the use of transport and even the tenancy of houses. The Prevention of Intimidation Ordinance was accordingly promulgated on the 30th May 1930, to deal primarily with activities such as picketing of liquor and foreign cloth shops and the molestation of persons engaged in occupations which for purposes of political agitation, were objects of special attack, and

secondly, activities intended to undermine the administration by the boycott of those engaged in public duties.

The Ordinance defined the offences of (1) molestation and (2) boycotting of public servants, and provided for the imposition in each case of imprisonment up to six months or with fine or with both. It also provided for the notification of criminal intimidation and offences under section 188 I. P. C. as cognizable offences.

The provisions of the Ordinance were capable of application to trade disputes in which resort was made to molestation, but at the time of its promulgation an assurance was given that these powers would not be used to impede or interfere with the legitimate promotion of any economic movement which had for its objects the furtherance of indigenous enterprise and that they would not be exercised in regard to any genuine labour dispute unconnected with political objects.

9. While the Prevention of Intimidation Ordinance provided powers to deal with the various forms of intimidation, it did not provide any powers to deal with persons who instigated others to withhold the payment of certain lawful dues in pursuance of the Congress no-tax campaign. The ordinary law gave power to proceed against persons who refused to discharge their public liabilities but did not include provisions by which effective action could be taken against those who, for political purposes, instigated others to withhold payment of their liabilities. The movement for the refusal of the payment of land revenue had been started in Gujerat in the Bombay Presidency and attempts had been made to organise resistance on the same lines in several other provinces. A resolution passed about this time by the Working Committee of the All-India Congress Committee indicated a wide extension of the civil disobedience movement by appeal to the masses. The Unlawful Instigation Ordinance was accordingly promulgated on the 30th May 1930, empowering the local Government to notify the area to which it should apply and to specify the liabilities in the notified area, i.e., land revenue or any sums recoverable as arrears of land revenue, or any tax, rate cess or other due or amount payable to Government or to any local authority or rent of agricultural land or anything recoverable as arrears of or along with such rent. The instigation to withhold payment of any of the notified liabilities was made punishable with imprisonment up to six months, or with fine or with both. The Ordinance also provided for the search for and forfeiture of publications containing matter instigating the non-payment of notified liabilities. The non-payment of revenue campaign was most strongly organised in certain districts in the Bombay Presidency and while investigation showed that in certain cases difficulty in collecting land revenue was due to inability to pay, in other areas, where the arrears were large, non-payment was contumacious. It was decided, while suspending collection in the case of poor cultivators, that the local Government should utilize the coercive process under the Bombay Land Revenue Code to direct the forfeiture and sale of land

Unlawful
Instigation
Ordinance
No. VI of
1930.

in the case of others who refused to pay and also to permanently replace village officials who resigned their posts. (F. 214/30.)

At the time of promulgation of the Ordinance, an assurance was given that it would not be used by local Governments to modify their revenue policy or to attenuate in any way the concessions by way of suspension or remission of rent or other such dues which were usually granted by them, nor to give assistance indirectly to landlords in the normal process of realization of rent or to facilitate enhancement of rent, but that it would be strictly confined to prevent instigation in pursuance of a political movement to refuse payments lawfully due.

Attempts at
non-official
negotiation
with Mr.
Gandhi.

10. In June 1930, as a result of an interview given by Pandit Moti Lal Nehru to the *Daily Herald*, a statement was issued by him that if Government were willing to give a private assurance that they would support the demand for full responsible government, subject to such mutual adjustments and terms of transfer as are required by the special needs and conditions of India and her long association with Great Britain, he would endeavour to come to some arrangement with Mr. Gandhi and Pandit Jawahar Lal Nehru which would render possible a measure of reconciliation entailing the calling off of the civil disobedience movement. It was contemplated by him that this would be accompanied by the cessation of Government's repressive policy and an amnesty to political prisoners and would be followed by participation by the Congress in the Round Table Conference on terms to be mutually agreed upon. At the time civil disobedience had received a degree of support not only beyond the expectation of Government, but beyond that of many of its leaders. Moderate opinion had not yet asserted itself on the side of Government. At this stage, two of its representatives, namely Sir Tej Bahadur Sapru and Mr. Jayakar, sought permission to visit Mr. Gandhi and the Nehrus who were then in jail and to put before them their point of view, with a view to bringing about some measure of co-operation to enable the constitutional issue to be solved in a calm atmosphere. Permission was given them to interview Mr. Gandhi with a view to seeing whether he was prepared to abandon the movement. Mr. Gandhi however explained his inability to act alone and the negotiation led on to interviews with the Nehrus. After prolonged conclaves with the prisoners nothing but absurd terms of peace were forthcoming, and Government believed that the negotiations had in the meantime resulted in a great deal of mischief being done.

Unlawful
Instigation
(second)
Ordinance,
No. XI of
1930.

11. The powers conferred by the Prevention of Intimidation Ordinance 1930 (V of 1930) and the Unlawful Instigation Ordinance 1930 (VI of 1930) lapsed on the 29th November 1930. There was, however, no abatement in the attempts made by Congress to inaugurate their no-tax campaign in various parts of the country. The vigorous no-tax campaign in Gujerat, which had been kept under control by the Unlawful Instigation Ordinance, continued to demand the closest

watching, while a similar campaign had been launched in the United Provinces. The special powers conferred by the Unlawful Instigation Ordinance were in these circumstances considered necessary and the Unlawful Instigation (Second) Ordinance, 1930, was accordingly promulgated on the 23rd December 1930 (File No. 13/4/1931-Poll.), the assurances given on the previous occasion being repeated.

12. While in no way modifying their policy of dealing firmly with the civil disobedience movement, Government had made it clear that they were ready to assist in every way towards the participation of Congress in the proposals for constitutional reform. The conclusion of the first Round Table Conference followed by the important announcement on constitutional reform, made on the 19th of January 1931, marked an important stage in the progress of events, and in order to give Congress as good a chance as possible of considering that announcement at a meeting of its Working Committee, Mr. Gandhi, Pandit Jawahar Lal Nehru, Abdul Kalam Azad, Mr. Rajagopalachari, Mr. Valabhai Patel, Mr. J. M. Sen Gupta, along with other leaders then in jail, were set at liberty. The result of the Working Committee's meeting, it was hoped, would be a declaration in favour of the abandonment of civil disobedience in favour of constitutional methods but, while not published, the decision of the committee was understood to be against co-operation, though the opposite view obtained considerable support. About this time, a resolution was moved in the Assembly asking for the release of all civil disobedience prisoners and in the course of the debate on the 5th February 1931 Government made it clear that they were willing to consider an amnesty but that it was essential that Government should be satisfied that those who had been carrying on the movement would be prepared "to take the path opened at the Round Table Conference". The situation subsisting at the time and the possibility of taking action in the direction of an agreement with Congress was dealt with in the circular letters addressed to local Governments on the 28th January and 21st February 1931. About this time Mr. Gandhi saw His Excellency the Viceroy and entered upon discussions which culminated in the settlement reached on 5th March 1931. It was agreed that steps would be taken for the participation of the representatives of the Congress in the discussions in London regarding the scheme of constitutional reform and to secure the requisite atmosphere, the Congress undertook to suspend civil disobedience and Government agreed to certain reciprocal action involving the withdrawal of the Ordinances and notifications banning Congress bodies, the remission of fines which had not yet been realised, return of forfeited property under certain conditions, etc., and the release of all prisoners convicted in connection with the movement under the Ordinances and ordinary law for offences not involving violence or incitement thereto. Congress undertook that the civil disobedience movement would be effectively discontinued, by which was meant the effective discontinuance of all activities in furtherance thereof, by whatever method pursued. The special powers and orders issued were thus withdrawn.

The Delhi
Settlement
dated 5th
March 1931.
[File No. 5/
45/31 Poll.]

The boycott of British commodities as a political weapon was to be abandoned, though the Settlement laid down that picketing which did not involve coercion, intimidation, restraint, hostile demonstration, obstruction to the public, or any offence under the ordinary law, would not be regarded *per se* as unlawful.

Develop-
ments subse-
quent to the
Delhi
Settlement
of March
1931, (File
No 33/7/31-
P.O.).

13. The Delhi Settlement of 5th March 1931, did not contain any suggestion that there would be any relaxation of the administration in regard to political activities which came within the mischief of the ordinary law, nor was this contemplated during the course of the conversations that led up to the Settlement. It was observed, however, that in consequence of the Settlement local Governments were reluctant to take action which might be represented as provocative and which might have the effect of prejudicing the restoration of normal conditions. The political situation at the time is well reflected in a speech delivered by the Governor of the Punjab (His Excellency Sir Geoffrey deMontmorency) on the 25th April 1931, which is relevant in this connection and from which the following passages are quotations :—

“After the 5th March, the Punjab Government, of set purpose, pursued a policy of tolerance and abstained from prosecutions, even where these would have been amply justified under the ordinary law. It seemed to us reasonable to wait and see what the result of the settlement would be, and also to allow any intelligible excitement, which might have been engendered by the release of a number of prisoners and the recent executions* to wear off. But we hoped there would be a general improvement in the situation on the conclusion of the meetings of the Congress at Karachi; and Government felt convinced that there was every reason to believe that Mr. Gandhi was really sincere in wishing that the Settlement should not be broken and that members of the more sober elements among the Congress generally shared his desire. This we still believe to be the case. Unfortunately, however, general efforts do not appear to be made by the rank and file to carry out what is undoubtedly the desire of the chief leader of the Congress movement.”

“I particularly regret the tendency manifest in some quarters to regard the immediate future as a period of truce, of which advantage should be taken to reorganise forces for a further struggle, since the state of mind it represents is not only inconsistent with the whole-hearted discharge of the obligations which the settlement imposes, but contains within it dangerous germs of trouble.”

“When I look through the reports which have reached me or which I have read in the press, of events in the Punjab since the last week of March, I find much that causes me dismay: a spate of violent speaking and incitement to violence has gone on: and there have been other breaches or deviations from the agreement. Let me take a few examples. These are only a few out of a large number.”

* (i.e., of Bhagat Singh and his companions.)

"Since March the 5th, my Government has, as I have shown, consistently pursued a policy of the utmost toleration: There were very good reasons for toleration: we would still welcome what that attitude was destined to help to secure. We had assumed that there was a large element in Congress circles, which generally and genuinely desired to co-operate and implement Mr. Gandhi's agreement and would encourage an atmosphere of peace for calm discussion of the problems of the future: but we have been disappointed in the results. Whatever efforts may have been made to secure other results, we can only say they have not been generally successful. Our toleration has only in the end bred license. There has been a campaign of effort to bring the administration into hatred and contempt. There has been hostile and threatening demonstrations. There has been a crescendo of violent speaking and writing and of incitement to violence: appeals for non-payment of taxes have been here and there recommended, traders in some places have again begun to be harassed by methods alien to the principles or practice of peaceful persuasion. The time has come for license to be controlled. It seems unlikely that any other influence has the power to control it, and the task will have to fall on Government. Government is clearly responsible, both in the immediate necessities of the situation and in the ultimate cause of good administration in the future, to suppress disorder, to protect individual rights and liberties and to maintain the fabric of society, and must now act where the needs of the case evidently demand it: and where the actions of individuals take the form of violence or incitement to violence or general incitement with commission of offences or attempts to seduce the police or the military from their duties or seditious activity likely to encourage violence or serious defiance of authority or criminal intimidation or obstruction of individuals in the exercise of their rights, Government will now in future, where the offence is clear, no longer stay its hand, but will exercise its powers under the law and deal with offenders."

* * * * *

In these circumstances the following principles were laid down for the guidance of local Governments in the H. D. circular letter No. S.-891/31-Poll., dated the 11th April, 1931 (File No. 33/7/31-Poll.):

- (a) So far as possible, action should be taken under the Ordinary law and resort to special powers avoided, unless and until the ordinary law proved inadequate. The Government of India to be consulted before use was made of the Criminal Law Amendment Act, 1908.
- (b) A common policy to be followed in regard to political activities which were part of a general programme, but which appeared to transgress the ordinary law or were otherwise prejudicial to the maintenance of law and order or the administration, *e.g.* the setting up of a parallel Government or an organised campaign against payment of rent or revenue under cover of economic distress.

- (c) The discretion of District Magistrates was not to be fettered by executive instructions in connection with the maintenance of order.
- (d) Action was to be taken against persons who incited to violence unless this was considered unnecessary on account of the comparative unimportance of the person concerned, the small effect of his writings or speeches or other circumstances.
- (e) In the matter of prosecution under Section 124-A of the Indian Penal Code or allied provisions of the law, the circumstances of each case, the importance of the persons concerned the effect of his action and other relevant considerations, including the nature of the local or general situation were to be taken into consideration.

This procedure was subsequently amended by a circular letter No. 3007, dated the 2nd May 1931 so as to give local Governments a free hand to take action in immediate cases, where necessary in the interest of law and order, without prior reference to the Government of India. The Government of India emphasised at the same time however that action under the Criminal Law Amendment Act of 1908 or other extraordinary measures should not be made except after consultation with them.

In short, the policy which obtained before the civil disobedience movement began was to be enforced; and the Government of India were to be consulted in regard to the prosecution of Congress leaders of more than provincial importance for offences under section 124-A of the Indian Penal Code or allied provisions of the law.

Congress
activities
after the
Delhi Settlement.

14. About the middle of 1931, Mr. Gandhi brought forward various points connected with alleged breaches of the provisions of the Delhi Settlement and these were dealt with on their merits from time to time. It is necessary however to mention a proposal put forward for the appointment of a permanent Board of Arbitration to decide questions connected with the interpretation of the Settlement and to adjudicate on the proper execution of its provisions by one party or the other. This proposal being rejected, Mr. Gandhi suggested a somewhat restricted proposal for arbitration on questions of interpretation of the Settlement. This was also rejected as Government found it impossible to agree to an arrangement which involved the suspension of the ordinary law or of the regular machinery of the administration or which included the appointment of an external authority to decide questions closely affecting the administration and involving responsibilities and functions inherent in Government itself, by a special procedure to which members of the Congress could lay claim and from which other members of the public would be excluded. (F. 33/XVII-31). It was feared that the rejection of these proposals would lead to an immediate rupture with Congress and it remained doubtful at the time whether Mr. Gandhi would proceed to attend the Round Table Conference at London.

It was clear at this stage that Government might at any time have been forced to take action against Abdul Ghaffar Khan and his followers in the North-West Frontier Province and that the result might certainly have been the renewal of civil disobedience accompanied by communal strife. The situation in the United Provinces and Gujerat also gave cause for anxiety as it was clear that so far from observing the terms and spirit of the pact the deliberate policy of Congress was to utilise the settlement for the purpose of extending their organisations and consolidating their position in preparation for a further struggle should a renewal of the movement be decided upon at a later date. There was much evidence in support of this and in July 1931 Government drew up, with a view to publication, an indictment of Congress activities subsequent to the Settlement. This however was not eventually published. (F. 33/50/1931). It was considered most important in the circumstances that firm control should be exercised from the outset in the event of any revived movement. It was recognised that if the movement were revived the position would be far more serious than it was in the middle of 1930 when the majority of the leaders were in jail and drastic powers of arrest in the case of the rank and file were not required. Congress had adopted since the Delhi Settlement the deliberate policy of consolidating their position in rural areas and it was felt to be a matter of great difficulty to prosecute its agents in the villages under the ordinary law or other ordinances before irretrievable mischief had been done. For these reasons, special powers of a drastic kind were considered to be vital, *e.g.*, the powers given by sections 3 and 4 of the Emergency Powers Ordinance of 1932 to arrest and deal with suspects. In the event of a revival of the movement Government therefore decided on the following course of action (*vide* H. D. Circular Ex-letter No. 1569, dated 12th August 1931) :—

- (a) the immediate declaration of the Congress Working Committee as unlawful by all local Governments,
- (b) the arrest of Mr. Gandhi and possibly also of a limited number of important leaders,
- (c) discretion to local Governments to declare provincial and local Congress organizations as unlawful, but not Congress as a body. This covered action against any organization in furtherance of the civil disobedience movement and the discretion was extended in regard to other subversive associations such as Youth Associations and Kirti Kisan Sabhas,
- (d) promulgation of the Emergency Powers Ordinance (which had been prepared in the autumn of 1930 giving various powers which might be required if the general situation deteriorated seriously) the Press Ordinance, the Unlawful Association Ordinance, the Unlawful Instigation Ordinance and the Intimidation Ordinance,
- (e) the prevention, by the arrest of leaders, of initial momentum being given to the movement.

15. Further conversations took place between His Excellency the Viceroy and Mr. Gandhi in July, 1931, as the result of which it was agreed that Congress would be represented by Mr. Gandhi at the Second Round Table Conference, and that the Settlement of March 5th, 1931 remained operative, the Government of India and the local Governments undertaking to secure its observance and to give careful consideration to any representations in regard to breaches of its provisions. The Government of India with the concurrence of the Bombay Government agreed to an enquiry being held into certain allegations in connection with the collection of land revenue in the Bardoli Taluka, (Government of India *communique*, dated 28th July, 1931, in File No. 14/30/1932-Poll.). Mr. Gandhi had brought to Simla a list of alleged breaches of the Delhi Settlement on the part of Government together with a list of complaints of a general character which purported to show that local governments were pursuing a policy of repression against Congress and its members. These matters were being enquired into in consultation with local Governments when Mr. Gandhi decided to publish the lists and in reply Government decided to publish the result of their enquiries. This was done by means of a statement published in the Gazette of India Extraordinary, dated 24th August 1931 (File No. 14/30/1932-Poll.), showing the unreality of the various allegations made.

16. Mr. Gandhi sailed for London on the 29th August 1931, and shortly after the situation in the U. P. and the North-West Frontier Province began to give cause for anxiety.

The United
Provinces
Emergency
Powers
Ordinance,
13/21/1931-
Poll.

During the last quarter of 1931 the agrarian situation in the U.P. deteriorated seriously and was aggravated by the decision of the Provincial Congress under Pandit Jawahar Lal Nehru, to embark on a no-rent campaign. Overt action had actually been taken to give effect to this decision. Collection of revenue in the Allahabad District was entirely suspended and difficulty was experienced in collecting rents in other places. It was decided therefore to arm the local Government with certain powers to deal with the movement. The U. P. Emergency Powers Ordinance was accordingly promulgated on the 14th December, 1931.—(File No. 13/21/1931-Poll.). It gave the local Government power—

- (1) to declare notified liabilities and to collect a notified liability as an arrear of land revenue,
- (2) to control (a) suspected persons, and (b) means of transport,
- (3) to take possession of buildings and to prohibit or limit access to certain places,
- (4) to require the assistance of certain persons,
- (5) to recover from parents or guardians fines imposed on young persons,
- (6) to impose collective fines on inhabitants of turbulent areas,
- (7) to punish tampering with public servants or interference with enlistment to military or police.

It also amended the Press (Emergency Powers) Act, 1931, so as to bring within its mischief any matter instigating, directly or indirectly, the no-tax campaign in the U. P.

17. The situation in the North-West Frontier Province which had been consistently bad for several months reached a crisis in December 1931 as the result of activities of the Red Shirts under the leadership of Abdul Ghaffar Khan who incited his followers to violence. Many instances had occurred of disobedience of lawful orders and a movement was started to set up parallel institutions. Although a no-tax campaign had not been openly preached, the idea was being secretly pursued and collections were very much in arrears: serious crime had increased and attempts were made to spread subversive activities across the border adjacent to the Peshawar District. The Provincial Congress Committee meeting held at Utmanzai, on the 20th December, 1931, passed resolutions declaring that nothing short of complete independence would be acceptable. The adherence of Abdul Ghaffar Khan's organization to the All-India Congress Committee was reaffirmed and the latter was called upon to abandon the Delhi Settlement and to proclaim the renewal of civil disobedience and arrangements were made for launching the movement in the first week of January, 1932 (*vide* Statements published by the Government of India on 24th and 28th December 1931, H. D. file No. 31/28/32-Poll.). To check these activities three Ordinances were promulgated on the 24th December, 1931, namely:—

The North-West Frontier Province Emergency Powers Ordinance, XIII of 1931.

- (1) The North-West Frontier Province Emergency Powers Ordinance.
- (2) The Unlawful Instigation (North-West Frontier Province Ordinance).
- (3) The Unlawful Association (North-West Frontier Province Ordinance).

The North-West Frontier Province Emergency Powers Ordinance conferred special powers on the local Governments and its officers for the purpose of maintaining law and order. It provided for:—

- (1) the arrest, detention and control of movements of suspected persons,
- (2) possession of buildings and of movable property of public utility,
- (3) prohibition or limitation of access to certain places,
- (4) regulation and control of traffic, means of transport; possession of arms and ammunition; public utility services; the supply of commodities of general use;
- (5) power to employ additional police; require the assistance of certain persons; secure reports of public meetings.

The penal provisions provided for imprisonment for a term or with fine or with both, for—

- (1) tampering with public servants,
- (2) interference with enlistment in the military or police,
- (3) the dissemination of false rumours,
- (4) possession of proscribed documents,

- (5) imposition of collective fines on inhabitants of turbulent areas; and
- (6) the recovery of fines imposed on young persons from the parent or guardian.

The Ordinance also provided for the appointment of (i) Special Judges, (ii) Special Magistrates, and (iii) Summary Courts and the procedure for the Special Criminal Courts; and for the appointment of Arbitration Tribunals to deal with claims for compensation for loss or damage resulting from action taken under certain provisions of the Ordinance, *e.g.* possession of buildings, or movables; control of arms and ammunition or public utility services.

The Unlawful Instigation (N.-W. F. P.) Ordinance, 1931, gave power to the local Government to deal with instigation to the illegal refusal of the payment of certain liabilities. Power was also given to the local Government (Foreign & Political Department File No. 325(3)-F./1931) to take effective measures for the occupation of immovable property and for the forfeiture, in certain circumstances of movable property used for the purpose of any association declared to be unlawful under the Criminal Law Amendment Act, 1908, but which that Act gave no power to do. In addition it gave power to forfeit funds of an unlawful association.

Resumption
of Civil
Disobedience
in 1932.

18. Mr. Gandhi returned from the Round Table Conference on the 29th December, 1931. He immediately sought an interview with His Excellency the Viceroy at which he desired to raise discussions regarding the Ordinances issued to deal with the situation in the United Provinces, and the North-West Frontier Province and the terrorist situation in Bengal. He was informed that His Excellency was prepared to see him on the understanding that the above matters were excluded from discussion. In the meantime, Mr. Gandhi had submitted a resolution for the Working Committee in which a public enquiry was demanded into the events which led up to the passing of the Ordinances referred to above and in the event of a satisfactory response not forthcoming, the nation was called upon to resume civil disobedience, including the non-payment of taxes, boycott, picketting, defiance of law, etc. Mr. Gandhi was therefore informed that in view of this resolution, no useful purpose would be served in giving him an interview and that Government would take all necessary steps to meet the revival of civil disobedience (*vide* correspondence published in Gazette of India, dated 16th January, 1932). Mr. Gandhi was arrested along with Mr. Vallabhai Patel on the 4th January, 1932 (File No. 30/12/1932-Poll.) and detained as a State prisoner under the provisions of the Bombay Regulation XXV of 1827 (File No. 31/4/1932-Poll.), a statement being published on the same date giving the reasons for the action taken *vide* H. D. Notification No. F. 33/XXIV/31, dated 4th January, 1932. The promulgation of certain Ordinances immediately on the revival of the civil disobedience had already been decided upon and in pursuance of this decision the four Ordinances referred to in paras. 19 and 20 below were promulgated on the 4th January, 1932.

19. The scope of the Emergency Powers Ordinance, 1932, was the same as that of the North-West Frontier Province Emergency Powers Ordinance, 1931, promulgated about a fortnight earlier to meet the situation in that province demanding immediate action.

The scope of the Unlawful Instigation Ordinance, 1932, and the Unlawful Association Ordinance, 1932, was also the same as that of the Unlawful Instigation (North-West Frontier Province) Ordinance, 1931 and the Unlawful Association (North-West Frontier Province) Ordinance, 1931, promulgated along with the North-West Frontier Province Emergency Powers Ordinance, 1931, referred to above (File No. 31/28/32-Poll.).

The Unlawful Instigation Ordinance, 1932, differed from the Unlawful Instigation (Second) Ordinance, 1930 (XI of 1930) in two respects (F. No. 14/12/31-Poll.):—

- (a) it contained a clause making an arrear of any notified liability recoverable as an arrear of land revenue; and
- (b) it contained a clause amending section 4 of the Press Act of 1931, so as to bring within the scope of that Act all matter which instigated to non-payment of any liability of the same kind as a liability which had been declared to be a notified liability anywhere in British India.

The Unlawful Association Ordinance, 1932, differed from the Unlawful Association Ordinance, 1930, in that it gave—

- (a) power to seize funds of unlawful associations (the necessity of this was demonstrated by the earlier warrant), and
- (b) power under which the Government of India could declare an association unlawful throughout British India.

20. The Prevention of Molestation and Boycotting Ordinance, 1932 differed from the similar Prevention of Intimidation Ordinance of 1930 (V of 1930) in that it contained—

- (a) an amplification of the definition of "molestation" so as to cover what was known as peaceful picketing, and
- (b) provision against the practice of celebrating mock funeral ceremonies as means of intimidation or annoyance.

The definition of "molestation" in section 3 of the Prevention of Molestation and Boycotting Ordinance was found inadequate to meet the case of picketers who merely loitered and did nothing else but caused crowds to gather around. (File No. 13/2/1932-Poll.). Section 3(b) of this Ordinance was accordingly altered to read as follows:—

"3(b) loiters at or near the place where such other person carries on business in such a way or with intent that any person may thereby be deterred from entering or approaching or dealing at such place, or does any other act at or near such place which may have a like effect."

This amendment was made by the Amending Ordinance, 1932, VII of 1932, which was promulgated on the 6th February, 1932.

Policy of
Government.

21. The general lines of policy to be pursued in dealing with the revived movement were set out in the Home Department circular letters No. S.-1569, dated the 12th August, 1931 and Nos. F. 14/XII/31 of 7th and 19th December, 1931. Briefly stated it was as follows:—

- (a) To prevent the movement obtaining momentum by initial action against leaders, organisations, property and funds; and
- (b) To stop unlawful activities by prompt action against individuals under the ordinary law and the Ordinances. It was considered that success attained by (a) would determine to a considerable extent the action necessary under (b) in so far as it would limit the number of individuals engaging in activities; but broadly speaking inaction against individuals especially during the early stages of the movement would nullify the effect of action under (a) by allowing the movement to obtain momentum (F. 14/12/1931).

This systematic method of dealing with the movement effectively from the outset had an excellent result not only in suppressing disorder but also in heartening moderate opinion and those, including Government servants, who had supported Government; and in restoring the prestige of constituted authority which seemed to be at a low ebb during the currency of the Settlement. The situation was considered by the Government of India to have cleared up a good deal by April 1932 and the movement was felt to have been definitely weakened (H. D. Circular Express Letter No. F. 13/4/32, dated 20th April 1932). It was possible to review the various powers taken by Ordinance to deal with it and to discard those which were little used or which could now be safely abandoned. Local Governments were consulted on these lines, but there proved to be little scope for giving up the powers taken and it was finally considered necessary to continue (except for a few provisions of the Emergency Powers Ordinance) all the powers conferred by:—

Special
Powers
Ordinance,
1932, X of
1932.

- (1) the Emergency Powers Ordinance, II of 1932,
- (2) the Unlawful Instigation Ordinance, 1932, III of 1932,
- (3) the Unlawful Association Ordinance, 1932, IV of 1932, and
- (4) The Prevention of Molestation and Boycotting Ordinance, 1932, V of 1932.

These Ordinances were due to expire on 3rd July 1932 (F. No. 13/8/31-Poll.), but were continued by a consolidated Ordinance which, as stated, included all the provisions of Ordinances II to V with the exception of

the following provisions of the Emergency Powers Ordinance, *viz.*, sections 8—Power to control supply of commodities of general use; 9—Power to take possession of movables; 14—Power to control public utility services. It was not found necessary to take any additional powers except to validate the continuance of orders made and action taken under the four ordinances referred to. Section 12 of the Emergency Powers Ordinance was abandoned as it was considered that section 17 of the Indian Police Act sufficed to meet the requirements of the situation. The consolidated Special Powers Ordinance, 1932, was promulgated on the 30th June, 1932. Only certain sections were of immediate all-India application, *viz.*, Section 64 which gave power to the Governor General in Council to declare associations to be unlawful, and the sections in Chapter VIII—Supplemental. Under section 1, the Governor General in Council and local Governments were empowered to bring into force any or all the remaining provisions in any area and with effect from any date, by notification in the Gazette of India or the local Gazette, as the case might be.

22. By the Spring of 1932 the back of the revived movement seemed to have been broken. It began however to be alleged (both in India and abroad) that considerable feeling against Government had been aroused by the measures taken to combat it and that the attitude of the public was one of "sullen resentment". Local Governments were consulted in regard to the facts with a view to giving publicity to them. The enquiry showed that an overwhelming proportion of the population was not concerned with the movement and that the rural areas were very much less affected than the urban. It was also clear from the replies received that the movement was definitely Hindu in character and that as a whole Muhammadans were definitely opposed to it and distrustful of the Congress. In the Punjab the Muhammadans and Sikhs also stood aloof from the movement. In Madras it was opposed by the Justice Party. The attitude of the depressed classes showed that the movement had no appeal for them and that they looked to Government as their friend and protector. Landowners generally were alarmed by the no-rent campaign and were definitely opposed to the movement. In certain provinces the lawyer element was found strongly opposed to the measures taken on the ground that Ordinances were not law and that rules by Ordinances should be replaced by legislation. Ordinance-rule was generally disliked by the educated classes but apart from this feeling it was clear that no state of "sullen resentment" existed except among the few irreconcilables and active supporters of Congress among whom there was naturally some chagrin and humiliation at the failure of Congress plans. There was fairly general agreement among local Governments that the attitude of the educated classes towards Government was in some measure due to distrust of the intentions of Great Britain in the matter of constitutional reforms. Moderate political opinion, it was estimated, was prepared to accept the repressive measures as a necessary evil on the assumption that they were required to prepare the ground for the constitutional advance then considered to be over due. (F. No. 14/28/1932).

Public reaction to the measures taken.

Criminal
Law Amend-
ment Act,
1932, XXIII
of 1932.

23. Before the expiry of the Special Powers Ordinance, 1932, the Government of India decided on the retention in the form of a Central enactment of those powers which were necessary for the whole of India (File No. 31/14-A./32), and to leave it to local Governments to supplement these provisions by means of local legislation in order to meet local or emergent conditions. The Criminal Law Amendment Bill was accordingly introduced in the Legislative Assembly on the 14th September, 1932. It reproduced in the form of amendments to Acts already on the Statute Book certain provisions of the Special Powers Ordinance, 1932, (X of 1932), including :—

- (1) Provisions against associations dangerous to the public peace, and
- (2) provisions to secure greater control over the Press,

The Act was passed in December, 1932, its life being limited to three years.

The following provincial enactments were passed to supplement the Central Act :—

- (1) The Bombay Special (Emergency) Powers Act, 1932.
- (2) The Bengal Public Security Act, 1932.
- (3) The U. P. Special Powers Act, 1932.
- (4) The Punjab Criminal Law (Amendment) Act, 1932.
- (5) The Bihar and Orissa Public Safety Act, 1932.
- (6) The N.-W. F. P. Public Tranquillity (Additional Powers) Act, 1932.

The Provincial Criminal Law Supplementing Act, 1932, was passed by the Central Legislature to supplement Nos. (1) to (5) in order to provide for appeals to the High Court and to exclude the jurisdiction of the High Court in other matters as it was not within the competence of the local legislature to pass legislation affecting High Courts. (File No. 11/X/33-Poll.).

Measures to
prevent
financial
assistance to
the civil
disobedience
movement.

24. As a result of the experience of the civil disobedience campaign of 1930 the Government of India attached great importance to preventing, so far as possible, financial assistance being given to the revived movement, the strength and duration of which it was felt was largely a question of funds. It was recognised that Congress would so arrange the custody and management of its funds as to give little opportunity to Government to interfere with them. Provincial Criminal Investigation Departments were instructed through the Director, Intelligence Bureau, to assist in obtaining information and the attention of local Governments was invited to the possibility of taking action on the following lines where information was available :—

- (a) prosecution under Section 17(1), Criminal Law Amendment Act, 1908, of any person who contributed or received or solicited any contribution for purposes of an unlawful association or who in any way assisted in the operations of such association;

- (b) action under section 7 of the Unlawful Association Ordinance which gave power to forfeit the funds of an unlawful association;
- (c) action under Section 4 of the Emergency Powers Ordinance which gave extensive powers to control suspected persons. The Government of India considered that a person who assisted in any way the financial operations of the movement came within the mischief of this section.

25. The possibility of Congress defeating the application of the Criminal Law Amendment Act, 1908, and the Unlawful Associations Ordinance by a dissolution of the subsidiary organisations and the appointment of individuals instead was considered on the resumption of the civil disobedience movement, and to meet such a contingency the Government of India contemplated taking special powers :—

Action
against
unlawful
bodies.

- (a) to enable the Government of India and local Governments to declare any movement unlawful which satisfied the conditions of Section 16 of the Criminal Law Amendment Act, 1908,
- (b) *mutatis mutandis* to make the provisions of Section 17(1) and 17(2) of the Act applicable to an unlawful movement but to have an uniform punishment of 6 months only,
- (c) to make offences cognizable and non-bailable, and
- (d) to amend the Unlawful Associations Ordinance so as to make its provisions applicable to an unlawful movement.

The Unlawful Movements Ordinance was accordingly drafted but after consulting Local Governments it was felt that there was no immediate need for taking special powers and the question was dropped, *vide* F. 14/2/1932.

26. Though the Criminal Law Amendment Act was found to be most useful in many respects, including action against (a) advertisements in the press of the activities of an unlawful association, (b) picketing and (c) the singing of revolutionary songs, the effect of certain judgments of the Bombay High Court made it clear that in regard to prosecutions under Section 17(1) of the Act, proof was required of membership subsequent to the notification of the association as unlawful since it was held that the person concerned should have a reasonable opportunity of severing his connection with it. In particular it was considered that proof should be established of overt acts establishing continued membership. The effect of the judgments was to impose limitations on the extent to which the Act could be employed when membership only was in question (F. 13/3/1931). Where such activity could not be established the Government of India therefore considered it safer to resort, wherever possible, to specific provisions of the ordinary law, the Special Powers Ordinance or the Criminal Law Amendment Act, 1932 (Home Department letter No. S. 110/32, dated 14th January 1932 in F. 14/12/1932, also Home Department letter No. D. 8228/32, dated 17th December 1932, in F. 14/29/1932).

Activities of Government servants in relation to the civil disobedience movement.

27. The position of Government servants with reference to the civil disobedience movement and allied movements which aimed at the subversion of Government established by law in British India was considered by the Government of India who decided that active support or advocacy of such movements should be held to constitute grave misconduct within the meaning of Article 351-C.S.R. and that it was within the competence of the local Government to withhold or withdraw the pension of any retired officer, who, after a warning, persisted in such support or advocacy (Home Department, circular letter No. D. 2440-Poll., dated 14th May 1930 in F. 390/1930).

Prevention of Congress Sessions.

28. So long as civil disobedience remained the main feature of Congress activities Government held that it would be quite inconsistent with their general policy to allow the holding of annual sessions which would unquestionably be used to give impetus to the movement. Steps were then taken accordingly to prevent the holding of the Congress Session at Delhi in April 1932. (F. 14/22/1932).

The intention of Congress to hold a Session in Calcutta in March 1933 led the Government of India to review the position again and local Governments were addressed on the subject (H.D. Circular Express letter No. 831/33, dated 8th February 1933—F. 4/III/33). Local Governments were in full agreement with the Government of India's appreciation of the position and the line of policy suggested, i.e., that as civil disobedience was still the avowed policy of the Congress, the Session could not be permitted. The decision also had the approval of the Secretary of State. Accordingly when it was definitely known that the Congress Session was to be held on the 31st March the Government of India made it known that it would be prohibited. Local Governments were asked to take action as taken in the case of the Delhi Session, to prevent persons from proceeding to Calcutta. (H. D. Circular No. 1457/33, dated 25th February 1933). It was contemplated by Congress that open demonstrations over a wide area should be organised by delegates proceeding to Calcutta by the distribution of hand-bills and delivery of lectures etc. in the villages. In order to meet this move, local Governments were directed not only to arrest but also to prosecute the delegates with a view to obtaining short sentences of imprisonment. (H. D. Circular Letter No. 1597/33, dated 17th March 1933.) As a result of the measures taken, which included action by Bengal to bring into operation in Calcutta the provisions of Chapters II and III of the Bengal Public Security Act, XXII of 1932, no real attempt was made to hold the Session. Mrs. Nellie Sen Gupta, the European wife of Mr. J. M. Sen Gupta, was arrested in attempting to read a resolution and about 350 other arrests were made about the same time. Several other arrests were made in connection with the Session which was generally a complete fiasco, the attempt to hold it exciting little or no interest in Bengal. (F. 4/III/33).

29. By October 1933 it became clear that the right wing of Congress had for some time been considering the desirability of modifying the programme and abandoning civil disobedience, although the left wing

of the Congress under the leadership of Pandit Jawahar Lal Nehru was definitely opposed to any modification of Congress policy. As a meeting of the All-India Congress Committee was contemplated, Government considered whether it would be desirable to prohibit it under the Criminal Law Amendment Act. (H. D. telegram to all local Governments No. 2427, dated the 9th October 1933.) After considering the views of local Governments in the matter, the Government of India were convinced that there could be no departure from the accepted policy which had hitherto been followed and that any meeting should be stopped if the suggestion to hold one materialised. The suggestion however fell through. (F. No. F. 4/8/33). The attitude of Government was made clear in the course of replies to questions asked in the Legislative Assembly in December 1933.

30. During the first civil disobedience movement altogether 60,498 prisoners were convicted and 19,000 persons approximately were in jail at the time that phase was brought to an end by the Delhi Settlement. When the movement was revived in 1932 the Government of India drew the attention of local Governments to the desirability of avoiding the overcrowding of jails as far as possible. The following suggestions were in this connection made for their consideration:—

- (a) It was found during the first civil disobedience movement that the infliction of fines, in lieu of imprisonment, or in addition to a short term of imprisonment, acted as an effective deterrent.
- (b) The release of accused persons before trial or of convicted persons who undertook not to take any further part in the movement was desirable since it weakened the movement and at the same time relieved pressure on jail accommodation.
- (c) The use of section 4 of the Emergency Powers Ordinance in certain cases.
- (d) The imposition of collective fines instead of prosecution of individuals.
- (e) The infliction of short sentences on a large number of the rank and file whom it was considered necessary to prosecute.

(H. D. Express letter No. S.-173, dated the 20th January 1932.)

During the second period of the movement the total number convicted was approximately 70,000. All were not of course in jail at any one time. Early in 1933, it was considered necessary, in view of the continued decline of the movement, to devise some policy in the matter of releases which would help to restore normal conditions and thus assist the more moderate elements to openly repudiate it. There was no intention however of doing anything that would suggest a spectacular jail delivery. With these objects in view local Governments were addressed in the Home Department Circular letter No. D. 1383/33-Poll. of the 25th February 1933 (F. 4/2/33) and their views invited

on the desirability of expediting the release of those prisoners who were not likely to resume civil disobedience activities. There was general support for this policy and effect was given to it. A further circular (Home Department Express letter No. D-4037/33, dated 26th June 1933) was addressed to local Governments after the temporary suspension of civil disobedience, but it was considered that no modification was needed in the policy laid down which was steadily pursued. There was no general amnesty when the movement was finally abandoned in the summer of 1934 (*vide* the communique issued on 6th June 1934 referred to in paragraph 31 below). An interesting analysis of the class of prisoners incarcerated in connection with the movement which was made threw a good deal of light on the actual appeal made by passive resistance, and illustrated the fact that the vast majority of civil disobedience prisoners were drawn from the lower and baser elements of society, a large proportion of the volunteers being hooligans and bazaar riff-raff. These constituted a serious jail problem and it was necessary in the interests of jail discipline to modify the general orders placing certain restrictions on the whipping of prisoners so as to permit those classified in 'C' class to be whipped in certain circumstances. (H. D. telegram No. 2632-S., dated 7th August 1930 in F. 362/30.)

Position of
movement in
1933-34.

31. While in jail Mr. Gandhi had interested himself in the Harijan movement and entered upon a fast in connection therewith with serious results to his own health. In view of this reaction on his health he was released from jail on the 8th May 1933. (F. No. 44/5619/33.) Soon after he published a statement suggesting the temporary suspension of the civil disobedience movement. This was followed by a conference at Poona and, on the 22nd July, by a formal statement by the Acting President of the Congress suspending mass civil disobedience and certain other activities in connection with the movement. About the same time Mr. Gandhi asked for an interview with His Excellency the Viceroy which was refused, in the following reply: "In reply to your telegram asking for an interview, His Excellency has directed me to say that if the circumstances were different he would have gladly seen you. But it would seem that you are opposed to withdrawing the civil disobedience movement except on conditions and that the interview you seek with His Excellency is for the purpose of initiating negotiations with Government regarding these conditions. It also appears to have been decided that unless the Congress reaches a settlement with Government as the result of such discussions civil disobedience will be resumed on August 1.

"It is hardly necessary to remind you that the position of Government is that the civil disobedience movement is wholly unconstitutional and there will be no compromise with it, and that Government cannot enter into any negotiations for its withdrawal. On April 29, 1932, the Secretary of State in the House of Commons, stated that there would be no question of making a bargain with Congress as a condition of its co-operation. The same position has been consistently maintained by Government in numerous subsequent statements. If the Congress desires to resume its position as a constitutional party and

to put an end to a movement, which has brought grave injury and suffering to the country the way is open to it, as it always has been, and it is within the power of the Congress to restore peace by withdrawing on its own initiative the civil disobedience movement."

Shortly after Mr. Gandhi again brought himself within the purview of the law. He was rearrested on 1st August 1933 and convicted under the Bombay Emergency Powers Act. Not long after he entered on a fast in connection with the refusal of certain facilities to enable him to carry on his Harijan work in jail and in view of the condition of his health was again set at liberty on August 25th, this time unconditionally. (F. 3/17/33). A conference was held by him at Poona in September and on its conclusion he announced that he himself would in view of his health refrain from offering civil resistance till the 4th August 1934 when his sentence would normally expire.

32. The movement itself, which had flagged for some time, was now at a low ebb. Mr. Gandhi's projected tour ostensibly in connection with Harijan work but possibly with a view to rehabilitating Congress in the eyes of the masses, led the Government of India to review the position and come to a decision as to the action that should be taken. Instructions were issued to local Governments who were asked at the same time to take no action against Mr. Gandhi without reference to the Government of India (Home Department D. O. Circular No. S. 6624/33, dated the 29th September 1933—File No. 4/8/33-Poll.). In December 1933 the situation showed little change and civil disobedience activities were negligible. The total number of convictions in October of that year was only 242 and continued to decline thereafter.

At the beginning of 1934 it became clear that a strong party was developing within the Congress in favour of entering the legislatures. Some evidence was also forthcoming indicative of a desire for peace. Government were approached in February 1934 with a view to permitting a meeting of the All-India Congress Committee if that body could, as it was hoped, be got to pass a resolution calling off civil disobedience. It is necessary to note that the movement had now been quiescent for many months, Fundit Jawahar Lal Nehru had been incarcerated in jail as a result of certain seditious speeches, thus leaving the left wing of the Congress sterile; Mr. Gandhi had refrained from open political activity and was engrossed in his Harijan movement and lastly some degree of co-operation was offered by Congress in connection with the Bihar earthquake disaster. The Government of India were not prepared to recede from the position they had taken up that no meeting of the All-India Congress Committee could be permitted unless Government could be satisfied that there was a definite majority in favour of a plain and unequivocal resolution for the abandonment of civil disobedience. Mr. Nariman and Sir Cowasjee Jehangir who came forward to ascertain the mind of Government were accordingly informed. It was in this atmosphere that the Swaraj party was revived, thus bringing to light the split in Congress ranks which had been evident for some time. This was followed

not long afterwards by an announcement by Mr. Gandhi on the 7th of April 1934 which, though characteristically capable of more than one interpretation, was regarded by Government as having the effect of calling off civil disobedience. The position at the time and the action required was considered by the Government of India in consultation with local Governments who were addressed in the Home Department telegram No. 821, dated the 9th April 1934. As a result of this consideration it was agreed that nothing should be done to prevent a meeting of the central Congress organisation called for the purpose of calling off the movement and of ratifying the change of policy announced by Mr. Gandhi. It was decided that there should be no categorical statement as to the action which Government would take until they had carefully considered the final decision of Congress. The views of Government were made known in answers to questions put in the Assembly and Council of State. The meeting of the Congress Committee at Patna in the following month resulted in Mr. Gandhi's statement of April being ratified. The Government of India expressed their views on the position in their circular telegram to local Governments No. 1195, dated the 24th May and their final announcement of policy in the matter was made in the communique dated the 6th June 1934 (F. 4/4/34-Poll.), which read as follows:—

“The Government of India have considered the situation arising from the resolution passed by the All-India Congress Committee at its recent meeting at Patna on the subject of civil disobedience. The resolution accepts the recommendation made in Mr. Gandhi's statement of 7th April. That statement was admittedly open to more than one interpretation but it was regarded by public opinion generally as indicating a genuine intention to withdraw civil disobedience as the policy of the Congress. The All-India Congress Committee have, moreover, decided by another resolution to put forward candidates for election to the Legislatures on behalf of Congress a course which is inconsistent with the continuance of the unconstitutional methods of civil disobedience. In view of the fact that civil disobedience has formally been discontinued, and that as a practical policy under present conditions it may be regarded as having already ceased to exist, the Government of India have decided in consultation with local Governments that the notifications declaring the various constituent parts of the Congress organisation unlawful should be withdrawn. At the same time the Government of India wish to make it clear that the special laws passed by the Central and Provincial Legislatures will continue in force and that action will be taken against any persons who bring themselves within their scope, in particular these powers will be used, should necessity arise to ensure that Government servants and those who have supported Government in opposing civil disobedience are not subjected to harassment. Further if activities are pursued by Congress as a whole or any of its branches which are in prejudice of the law or indicate an intention to revive civil disobedience in any form Government will not hesitate to re-impose the notifications under the Criminal Law Amendment Act which are now being withdrawn.

During the course of the civil disobedience movement, many revolutionary organisations were proscribed which were distinct from the

Congress though working in more or less close association with its objects. Local Governments will not withdraw the notifications against any such revolutionary organisations or any organisations which in their opinion are a danger to the peace of the country. In accordance with this policy the Government of the North-West Frontier Province have decided, with the full approval of the Secretary of State, that the notifications against the Red Shirt organisations shall continue in force.

The general policy of expediting the release of prisoners convicted of offences connected with civil disobedience which has been pursued for some time past will be continued by local Governments in the light of local conditions."

In pursuance of this policy, the ban was not removed from the Red Shirt organisation in the North-West Frontier Province, and certain other organisations, including in four provinces, the Hindustani Seva Dal. At the same time the policy of expediting the release of persons convicted of offences connected with civil disobedience which had been pursued for some time past was continued by Local Governments in the light of local conditions.

33. The Indian Criminal Law Amendment Act of 1932 was passed mainly to deal with the civil disobedience movement but it was made clear when the Bill was debated that its provisions were expected to have a strong controlling influence over terrorism and communism. Although the civil disobedience movement was no longer in being in the summer of 1935, Government could not dismiss the possibility of its revival at some time considered convenient by its author and considered that, in view of the continuance of this possibility and the persistence of the serious menace arising out of terrorism and communism and also from communal tension the main provisions of the Act, which would have expired ordinarily in December 1935, should be continued and made part of the permanent law.

The Indian
Criminal
Law Amend-
ment Act
1935.

The following provisions of the Act of 1932 were after careful consideration found to be indispensable and were incorporated in the Criminal Law Amendment Bill of 1935:—

- (1) Section 5, which penalised the dissemination of proscribed documents,
- (2) Section 7, giving powers to control picketing and molestation,
- (3) Section 9, making offences under sections 5 and 7 cognizable and non-bailable,
- (4) Section 10, giving local Governments, power to declare certain other offences cognizable and non-bailable,
- (5) Section 11, which amended the Criminal Law Amendment Act of 1908 so as to empower the Governor General in Council to declare an association to be unlawful throughout British India,

- (6) Sections 12 and 13 making further amendments in the Act of 1908 mainly to give power to seize the property and the funds of Associations declared unlawful, and
- (7) Sections 14, 15 and 16, making certain amendments in the Press Act of 1931.

These provisions had all been found of very considerable value not only in dealing with civil disobedience but with other unlawful activities, particularly communism. The power to stop the dissemination of matter proscribed under the ordinary law was regarded as filling a gap in the law and was valuable in connection with communist literature. Experience also showed that the provisions relating to picketing were important in dealing with communist strikes and likely to be useful in connection with strikes on railways, when picketing was resorted to, and in all cases where such action if not effectively dealt with might lead on to wider disorder and violence. One local Government in urging the retention of this power, expressed the view that picketing, which had been so prominent a feature of the civil disobedience movement, had become a more or less normal method of expressing opposition to Government and of annoyance to private persons who differed from the political, economic or even religious views of the picketers.

The power to seize the funds and property of unlawful associations was considered a logical and valuable addition to the powers conferred by the Criminal Law Amendment Act of 1908, as enabling Government to cripple the activities of bodies declared to be unlawful. Its use in seizing remittances from abroad to communist organisations was also recognised as valuable.

The provisions widening and making permanent the powers given by the Press Act of 1931 had the unanimous support of local Governments and recorded the fact that it was not possible, as had been attempted in 1922, to do without an effective means of controlling writing in the Press.

The Criminal Law Amendment Bill was thrown out in the Legislative Assembly, and leave being refused by that body to reintroduce it in a recommended form, it was certified and finally passed by the Council of State in that form. The reasons for resorting to certification are explained in the despatch addressed by His Excellency the Viceroy to the Secretary of State No. 127, dated the 4th October 1935.

The provincial Acts referred to in para. 23 above which were due to expire at the end of 1935 were retained in their original form, except that certain changes were made in the Bombay Act. The life of the N.-W. F. P. Public Tranquillity Act is longer than the other provincial acts and it does not expire till the beginning of 1937.

APPENDIX I.

Resolution framed by Pandit J. L. Nehru and issued on behalf of the Congress Working Committee, for adoption by public meetings on Independence Day, 26th January 1930.

"We believe that it is the inalienable right of the Indian people, as of any other people, to have freedom and to enjoy the fruits of their toil and have the necessities of life, so that they may have full opportunities of growth. We believe also that if any government deprives a people of these rights and oppresses them, the people have a further right to alter it or to abolish it. The British Government in India has not only deprived the Indian people of their freedom but has based itself on the exploitation of the masses, and has ruined India economically, politically, culturally and spiritually. We believe therefore that India must sever the British connection and attain Purna Swaraj or complete independence.

India has been ruined economically. The revenue derived from our people is out of all proportion to our income. Our average income is seven pice (less than two pence) per day, and of the heavy taxes we pay 20 per cent. are raised from the land revenue derived from the peasantry and 3 per cent. from the salt tax, which falls most heavily on the poor.

Village industries, such as hand spinning, have been destroyed, leaving the peasantry idle for at least four months in the year, and dulling their intellect for want of handicrafts, and nothing has been substituted, as in other countries, for the crafts thus destroyed.

Customs and currency have been so manipulated as to heap further burdens on the peasantry. British manufactured goods constitute the bulk of our imports. Customs duties betray clear partiality for British manufactures, and revenue from them is used not to lessen the burden on the masses but for sustaining a highly extravagant administration. Still more arbitrary has been the manipulation of the exchange ratio which has resulted in millions being drained away from the country.

Politically, India's status has never been so reduced as under the British regime. No reforms have given real political power to the people. The tallest of us have to bend before foreign authority. The rights of free expression of opinion and free association have been denied to us and many of our countrymen are compelled to live in exile abroad and cannot return to their homes. All administrative talent is killed and the masses have to be satisfied with petty village offices and clerkships.

Culturally, the system of education has torn us from our moorings and our training has made us hug the very chains that bind us.

Spiritually, compulsory disarmament has made us unmanly and the presence of an alien army of occupation employed with deadly effect to crush in us the spirit of resistance, has made us think that we cannot look after ourselves or put up a defence against foreign aggression, or even defend our homes and families from the attacks of thieves, robbers and miscreants.

We hold it to be a crime against man and God to submit any longer to a rule that has caused this fourfold disaster to our country. We recognise, however, that the most effective way of gaining our freedom

is not through violence. We will therefore prepare ourselves by withdrawing, so far as we can, all voluntary association from the British Government, and will prepare for civil disobedience, including nonpayment of taxes. We are convinced that if we can but withdraw our voluntary help and stop payment of taxes without doing violence, even under provocation, the end of this inhuman rule is assured. We therefore hereby solemnly, resolve to carry out the Congress instructions issued from time to time for the purpose of establishing Purna Swaraj."

APPENDIX II.

Important orders issued by the Government of India in connection with the Civil disobedience movement.

- No. 1.—LETTER TO ALL LOCAL GOVERNMENTS AND ADMINISTRATIONS, No. 113, DATED THE 30TH JANUARY 1930.
- No. 2.—LETTER TO ALL LOCAL GOVERNMENTS, No. 344, DATED THE 26TH MARCH 1930.
- No. 3.—LETTER TO ALL LOCAL GOVERNMENTS AND THE CHIEF COMMISSIONER, NORTH-WEST FRONTIER PROVINCE; AND ENDORSEMENT TO THE FOREIGN AND POLITICAL DEPARTMENT, No. 2440-POLL., DATED THE 14TH MAY 1930.
- No. 4.—OFFICE MEMORANDUM TO ALL DEPARTMENTS OF THE GOVERNMENT OF INDIA, CHIEF COMMISSIONERS OF DELHI, COORG AND ANDAMANS; THE DIRECTOR OF PUBLIC INFORMATION; DIRECTOR, INTELLIGENCE BUREAU AND PUBLIC SERVICE COMMISSION AND ENDORSEMENT TO ALL LOCAL GOVERNMENTS AND C. C., N.-W. F. P., No. D-2440-POLL., DATED THE 14TH MAY 1930.
- No. 5.—DEMI-OFFICIAL LETTER TO THE CHIEF SECRETARIES OF LOCAL GOVERNMENTS AND HEADS OF ADMINISTRATIONS, No. D-1018-POLL., DATED THE 15TH MAY 1930.
- No. 6.—TELEGRAM TO ALL LOCAL GOVERNMENTS AND ADMINISTRATIONS (TO PUNJAB BY EXPRESS LETTER), No. 1828-S., DATED THE 4TH/5TH JUNE 1930.
- No. 7.—LETTER TO ALL LOCAL GOVERNMENTS AND ADMINISTRATIONS, No. S.-1080, DATED THE 8TH JULY 1930.
- No. 8.—TELEGRAM TO THE GOVERNMENT OF BIHAR AND ORISSA, No. 2632-S., DATED THE 7TH AUGUST 1930.
- No. 9.—ENDORSEMENT TO ALL LOCAL GOVERNMENTS AND ADMINISTRATIONS (EXCEPT B. & O.), No. D-5515-POLL., DATED THE 9TH AUGUST 1930.
- No. 10.—DEMI-OFFICIAL LETTER TO ALL LOCAL GOVERNMENTS AND ADMINISTRATIONS, No. D-4319-POLL., DATED THE 21ST AUGUST 1935.
- No. 11.—TELEGRAM TO ALL LOCAL GOVERNMENTS AND ADMINISTRATIONS (REPEATED TO SECRETARY OF STATE FOR INDIA), No. 2998-S., DATED THE 5TH SEPTEMBER 1930.
- No. 12.—LETTER TO ALL LOCAL GOVERNMENTS AND ADMINISTRATIONS (EXCEPT BURMA), No. 7293/30-POLL., DATED THE 10TH OCTOBER 1930 AND ENDORSEMENT TO THE GOVERNMENT OF BOMBAY AND F. AND P. DEPARTMENT.

- No. 13.*—LETTER TO ALL LOCAL GOVERNMENTS AND ADMINISTRATIONS, No. S.-115/POLL., DATED THE 14TH JANUARY 1931.
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- No. 14.*—EXPRESS LETTER TO ALL LOCAL GOVERNMENTS AND ADMINISTRATIONS, No. S.-891/31/POLL., DATED THE 11TH APRIL 1931.
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- No. 15.*—LETTER TO ALL LOCAL GOVERNMENTS AND ADMINISTRATIONS, No. D.-3007/31-POLL., DATED THE 2ND MAY 1931.
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- No. 16.*—EXPRESS LETTER TO ALL LOCAL GOVERNMENTS AND ADMINISTRATIONS (INCLUDING AJMER-MERWARA), No. S.-1569, DATED THE 12TH AUGUST 1931.
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- No. 17.*—EXPRESS LETTER TO ALL LOCAL GOVERNMENTS AND ADMINISTRATIONS, No. F.-14/XII/31-POLL., DATED THE 7TH DECEMBER 1931.
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- No. 18.*—EXPRESS LETTER TO ALL LOCAL GOVERNMENTS AND ADMINISTRATIONS, No. F.-14/XII/31-POLL., DATED THE 19TH DECEMBER 1931.
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- No. 19.*—EXPRESS LETTER TO ALL LOCAL GOVERNMENTS AND ADMINISTRATIONS, No. F.-33/32-POLL., DATED THE 7TH JANUARY 1932 AND ENDORSEMENT TO THE F. AND P. DEPARTMENT, A. D., C. G. S. AND D. I. B., DATED THE 9TH JANUARY 1932.
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- No. 20.*—EXPRESS LETTER TO ALL LOCAL GOVERNMENTS AND ADMINISTRATIONS (INCLUDING AJMER-MERWARA), No. S.-110-32-POLL., DATED THE 14TH JANUARY 1932 AND ENDORSEMENT TO THE F. AND P., THE ARMY DEPARTMENT, THE CHIEF OF THE GENERAL STAFF AND THE D. I. B.
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- No. 21.*—EXPRESS LETTER TO ALL LOCAL GOVERNMENTS AND ADMINISTRATIONS (INCLUDING AJMER-MERWARA), No. S.-173-POLL., DATED THE 20TH JANUARY 1932.
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- No. 22.*—EXPRESS LETTER TO ALL LOCAL GOVERNMENTS AND ADMINISTRATIONS, No. F.-13/4/32-POLL., DATED THE 20TH APRIL 1932.
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- No. 23.*—LETTER TO THE GOVERNMENT OF MADRAS, No. D.-8228/32-POLL., DATED 17TH DECEMBER 1932.
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- No. 24.*—EXPRESS LETTER TO ALL LOCAL GOVERNMENTS (EXCEPT BURMA), No. D.-831/33-POLL., DATED THE 8TH FEBRUARY 1933.
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- No. 25.*—LETTER TO ALL LOCAL GOVERNMENTS (EXCEPT BENGAL), No. D.-1457/33-POLL., DATED THE 25TH FEBRUARY 1933.
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- No. 26.*—LETTER TO THE GOVERNMENT OF BENGAL, No. D.-1457/33-POLL., DATED THE 25TH FEBRUARY 1933.
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- No. 27.*—LETTER TO ALL LOCAL GOVERNMENTS AND ADMINISTRATIONS (INCLUDING AJMER-MERWARA), No. D.-1383/33-POLL., DATED THE 25TH FEBRUARY 1933.

No. 28.—LETTER TO ALL LOCAL GOVERNMENTS (EXCEPT BENGAL) AND ADMINISTRATIONS, No. D.-1597/33-POLL., DATED THE 17TH MARCH 1933.

No. 29.—EXPRESS LETTER TO ALL LOCAL GOVERNMENTS AND ADMINISTRATIONS (INCLUDING AJMER-MERWARA), No. D.-4037/33-POLL., DATED THE 26TH JUNE 1933.

No. 30.—D. O. LETTER TO ALL LOCAL GOVERNMENTS AND ADMINISTRATIONS, No. S.-6624/33, DATED THE 29TH SEPTEMBER 1933.

No. 31.—TELEGRAM TO ALL LOCAL GOVERNMENTS AND ADMINISTRATIONS (EXCEPT BURMA), No. 821, DATED THE 9TH APRIL 1934 (BY EXPRESS LETTER TO C. C., DELHI, No. 1484, DATED THE 9TH APRIL 1934). (REPEATED TO SECRETARY OF STATE FOR INDIA).

No. 32.—TELEGRAM TO MADRAS, BOMBAY, BENGAL, U. P., B. & O., C. P., ASSAM, COORG AND AJMER-MERWARA, No. 1195, DATED THE 24TH MAY 1934. (REPEATED TO SECRETARY OF STATE.) (EXPRESS LETTER TO PUNJAB, N.-W. F. P. AND DELHI).

No. 1.—LETTER TO ALL LOCAL GOVERNMENTS AND ADMINISTRATIONS, No. 113,
DATED THE 30TH JANUARY 1931.

I am directed to address you on the situation arising from the decisions of the Lahore Congress. The course of events during 1929 followed on the whole with some closeness the anticipations contained in the Home Department letter No. D-342, dated 21st February 1929. The year was spent by the more advanced elements in the Congress in preparing for the struggle, which they intend to precipitate, rousing anti-Government feeling in every way possible and generally attempting to create an atmosphere favourable to the launching of a mass movement during the present year. They have, as Local Governments are aware, met with a considerable degree of success in stirring up a ferment and promoting revolutionary ideas among the student classes, mainly through the organization of the youth movement. But, as was indicated in the Home Department letter No. D-342/29, dated 24th June 1929, they have so far achieved no appreciable success with the masses with the exception perhaps of some sections of industrial labour and temporarily in some restricted rural areas. The Communist movement proper has received a serious set back in consequence of the Meerut prosecution, and the failure of the strike in Bombay promoted by the Girni Kamgar Union, though the language of the Communists has to some extent been adopted by the nationalist revolutionaries. The position, therefore, at the opening of the Congress campaign for direct action appears to the Government of India to be as follows. The masses at the moment are generally unaffected. The attitude of the Sikhs, however, in the Punjab is somewhat doubtful. There are also signs of agitation over land revenue in certain provinces which might be exploited. Again the Muslims are disturbed over the Sarda Act, but it may be hoped that the Congress will not be able to turn this to their advantage. The Congress themselves seem to be conscious that they have done little to prepare the masses on whom they must rely for any really effective movement. On the other hand, numbers of young men of the educated middle classes have been worked up into a state of great patriotic excitement and corresponding hatred of an alien Government, the process having been facilitated by the serious growth of unemployment among these classes. These are the elements which have in effect obtained control of the Congress, and it may be anticipated that they will provide a force which will drive the followers of the Congress doctrine more and more rapidly to extreme courses.

2. The announcement made by His Excellency the Viceroy on the 31st October 1929 made a very marked impression on all but the most extreme political opinion, and this is a feature in the situation which must constantly be borne in mind. At the moment there is a strong body of political opinion very definitely opposed to the Congress aims and methods. The decisions of the Lahore Congress have been very unwelcome to the right wing of the Congress, which comprises for the most part the older men. An appreciable number of the Congress members of the Legislature, even if they do not decline to obey the direction to resign their seats, propose to stand for re-election after repudiating the Congress mandate. They and their followers will, whether formally or not, in effect cease to be members of the Congress, and there is an obvious tendency towards amalgamation of these elements with the other Hindu nationalist parties which already stand outside the Congress. Efforts are being made to organize more and more closely the nationalists of all parties who believe in constitutional methods, and it may be hoped that their consciousness of the strong position that they would hold at the Round Table Conference will suffice to keep them firm in their opposition to the Congress, particularly if the methods of the latter are seen to be failing and merely leading the country into disorder. It would be sanguine to expect that the actual measures which may have to be taken by Government to deal with the activities of the extremists will receive the positive support of these forces, but it may be hoped that

there will be a widespread latent recognition of the fact that such action is necessary.

3. To complete the review of the present position it is necessary to refer to the probabilities of violence. This is not an ostensible part of the Congress programme. The voting on the resolution about the attempted outrage on the Viceroy's Train shows, however, that nearly half the delegates were at least in sympathy with those who follow the methods of violence. The driving force of the Congress consists largely in those who are convinced believers in violence. Even Pandit Jawaharlal Nehru in his presidential speech made it plain that his objection to violence was not one of principle, but merely that it promised no substantial results. The advocates of violence might well believe that that is an objection which can easily be overcome. In times when the creed of non-violence had some vitality it was found that a mass movement could not be conducted without violence. Now when few of the active workers have any convinced belief in non-violence it may be taken as certain that the danger of violence accompanying mass movement is greatly aggravated. Finally there are the terrorist organisations which definitely exist for the perpetration of violent crime. The whole atmosphere of the Congress must have acted as a strong stimulus to these. In the Congress camp members of such organizations from all parts of India have been collected, and it must be presumed that they have been consulting and laying plans. It is already known that there are considerable signs of activity among the Bengal revolutionaries. Another symptom is the outrage on the Viceroy's Train. It is evident that Government must be prepared for a recrudescence of revolutionary crime.

4. The main resolution passed by the Congress at Lahore defined their objective as complete Independence and urged Congressmen to devote their exclusive attention to the attainment of this goal. It authorised the All-India Congress Committee, whenever it deemed fit, to launch a programme of civil disobedience, including the non-payment of taxes, whether in selected areas or otherwise and under such safeguards as it might consider necessary. The Congress has thus declared itself to be a body which intends to pursue an illegitimate aim by unlawful and unconstitutional means, and this fact simplifies the position of Government in dealing with their activities. It may be anticipated that the Congress will at first direct their energies to demonstrations and propaganda in favour of Independence combined with spreading hatred of the Government and racial hatred and glorification of revolution and revolutionary crime. Efforts to strengthen the various youth movements and organizations of volunteers will no doubt also be made. When the Congress leaders judge that the preliminary preparation by means of propaganda has been sufficient, they will presumably initiate movements that will bring them actively into conflict with the law. Such movements may take the form of boycotts of foreign cloth or liquor, which involve intimidation and picketing, or movements for the non-payment of taxes, in particular land revenue, or for non-payment of rent, or endeavours to promote, or take advantage of, railway strikes or strikes of industrial workers. Though this may be the general plan of campaign, it is necessary to be prepared for more advanced developments in particular places at any time. It may be anticipated that local movements in the nature of direct action will be initiated whenever the local leaders think an opportunity presents itself, and indeed it is probable that the deliberate policy will be to start movements in selected areas at any moment that may seem appropriate, based upon particular local grievances or misrepresentations.

5. The policy which the Government of India consider should be pursued in general is to adjust Government action carefully to local conditions. The restraining action of Government must be effective; but it should not exceed the actual requirements of the situation and in particular it would seem inadvisable at an early stage in agitation to pass general prohibitory

orders, for instance in regard to demonstrations, which might give the extremists what they are looking for, namely, an easy method of defying Government on a large scale. The movement may in some parts of the country show little sign of progress, and if that is so, it is clearly undesirable to alienate the somewhat unstable sympathies of the political parties which are standing aloof from or in opposition to the Congress, by taking action which can be represented as excessive. At the same time, it must be clearly realised that in a struggle of this nature, moral and psychological factors are of great importance. It is essential that Government should maintain a moral superiority over the forces of disorder, and that action should not be delayed until that moral superiority has been lost. It is an elementary factor in the situation that if Government is not prepared to fight its own battles it cannot expect that any one else will be prepared to do so. The best way, therefore, to retain the support of the bulk of the population is to show, if necessary, by action that Government has no intention of letting the extremists get the upper hand, even temporarily. It is probable that a great deal can be done by judicious propaganda in the districts to keep the mass of the population steady. But such action must evidently be accompanied by convincing proofs that Government are not only asserting their intention to enforce the law, but are actually enforcing it.

6. I am now to deal more particularly with the nature of the action which it may be anticipated will be required. In the first place, I am to take the opportunity of making clear the attitude of the Government of India in regard to the proposals that have been widely advocated by men who profess moderate views that an amnesty should be granted to political prisoners. The general line taken by the Government of India towards this demand was stated in the Home Department ^{telegram*} ~~Ex-letter†~~, No. 3618, dated the 11th December 1929. This statement of the case was made at a time when the extremists had not yet declared their policy, and it might be supposed, though the anticipation would have been sanguine, that there was some possibility of the new situation postulated in that telegram as a condition precedent to the consideration of any review of cases arising. The proceedings of the Lahore Congress have now made it plain that the Independence movement and the advocacy of civil disobedience, so far from being suspended, have been intensified. Consequently ideas which in other circumstances might have been considered, are in present circumstances out of place, and all questions of amnesty must be regarded as being completely in abeyance.

7. In the second place, I am to explain that the suggestion made in the Home Department ^{telegram} ~~Ex-letter~~, No. 3618-S., dated the 11th December, that it might be desirable to go slow with prosecutions that would otherwise have been instituted was made at a time when there still seemed to be a prospect that the Congress might declare itself in favour of constitutional methods. In the present circumstances that suggestion naturally lapses, and the Government of India desire to make it plain that the policy laid down in the Home Department letter No. D-342, dated 21st February 1929, should be strictly and firmly pursued. In particular, in view of the criticisms of the existing policy of prosecution, which were made by Mr. Fenner Brockway and others during the course of the debate in the House of Commons on the 13th December, it is desirable to make it plain that there is no intention of limiting the discretion of Local Governments in initiating prosecutions under section 124-A. to cases which amount to definite incitements to violence, but that, as laid down in that letter, they are free to prosecute.

* (Copy enclosed to Delhi), N.-W. F. P. and Coorg.

† To Punjab and C. P. only.

whenever in their judgment it is necessary to do so, in order to check movements which are leading towards revolutionary action (which may be taken to be the present policy and programme of the Congress). The Government of India fully recognize that the policy indicated in the letter of 21st February 1929, has been carried out by Local Governments with discrimination and, though the situation is now more serious, the importance of avoiding indiscriminate prosecutions or of proceeding against the more academic forms of sedition remains. The decision as to whether a particular prosecution should be undertaken will, as hitherto, depend on the practical necessities of the situation, as broadly indicated in paragraph 11 of the letter of 21st February 1929.

8. As already suggested, the initial efforts of the Congress may be expected to be directed mainly towards demonstrations and propaganda. In dealing with demonstrations difficult problems of judgment must arise. On the one hand any general policy of attempting to prohibit demonstrations may be difficult to enforce and may involve the Government in a somewhat ineffective struggle against unessentials. If prohibitions are made it must be clear that they can be fully and continuously enforced without Government being driven to fight on ground which is disadvantageous to it. Similar considerations apply to action against emblems of various kinds. On the other hand, as is recognized in the correspondence ending with the Home Department telegram No. $\frac{178^*}{175^\dagger}$ -S., dated 19th January 1930, it may well be that in particular circumstances or provinces demonstrations may have a highly dangerous or undesirable effect in stimulating anti-Government feeling or in producing the impression that Government is powerless. Decisions clearly must rest on local considerations and circumstances, and the Government of India have no intention of attempting to devise any formula for universal application. With regard to propaganda directed to stirring up strong feeling against the Government, it will be desirable to continue the policy followed during the last year of maintaining steady pressure under the ordinary law by the institution of carefully selected prosecutions. This may have to be supplemented later, if a number of dangerous agitators are at work endeavouring to rouse the masses, by more extensive action under section 108 of the Criminal Procedure Code. The Government of India also suggest that use should be made in suitable cases of the powers of forfeiture conferred by section 99-A of the Criminal Procedure Code. It seems likely that the Congress will rely to a considerable extent for the dissemination of the propaganda intended to rouse the feeling of the masses against Government on distribution of leaflets to villages. The point has already been brought to notice in the Home Department telegram No. 221-S., dated the 23rd January 1930, and it is intended to address Local Governments in greater detail on the various considerations involved after their replies have been fully examined. If the measures indicated above are not effective to keep the situation under control, it may be necessary to use the powers conferred by the Seditious Meetings Act, or in certain circumstances to take action under Part II of the Criminal Law Amendment Act.

9. The Government of India consider that not only should vigorous measures be taken to deal on the lines indicated above with dangerous propaganda, but that it is of great importance to institute a comprehensive system of counter-propaganda. I am to enclose a note prepared by the Director of Public Information, which deals in a simple way with the allegations contained in the Congress declaration of the 26th January. This may

* Not to Bihar and Orissa, Bengal and Burma.

† To Bihar and Orissa, Bengal and Burma.

‡ To Delhi only.

be of some use to Local Governments in preparing material for counter-propaganda in the villages. I am also to commend for the consideration of Local Governments the desirability of forming some organisation, such as the Aman Sabhas, which are believed to have functioned with success in certain provinces during the non-co-operation movement, which would focus the activities of those who are prepared to support Government and give them an opportunity to take the initiative and not to feel themselves always in the position of half-hearted apologists. It appears to the Government of India a matter of real importance that the anti-Government agitation should not be allowed to monopolise all public manifestations of opinion.

10. With regard to the specific movements which are likely to bring the extremists actively into conflict with the law, I am to invite special attention to the two notes forwarded with the Home Department letters No. D-737-Poll., dated the 30th March 1929, and No. D-737, dated the 7th May 1929, dealing respectively, with movements for non-payment of revenue, taxes or rent, and boycott movements and volunteer organizations. History tends to repeat itself in these movements, and it is hoped that the experience of the past, which has been brought together in these notes may be of considerable use to Local Governments. The primary lesson which is to be derived from all these anti-Government movements is the importance of prompt and vigorous action at the outset. The first line of defence must be firm executive action and full utilisation of the powers conferred by the ordinary law; the second will be the exceptional powers which the Government already possess in the shape of Part II of the Criminal Law Amendment Act and the Seditious Meetings Act; the third would be new powers which may have to be taken. In the notes to which reference is made above it was assumed that these movements could be handled effectively with existing powers. The Government of India, however, are prepared, if necessity is shown, to consider the taking of fresh powers. In particular, if there are signs of the development of widespread movements for non-payment of land revenue or other public dues or of rent, it might be desirable to issue an Ordinance making it an offence to instigate persons not to pay such dues. The Government of India have prepared a draft Ordinance on these lines and will forward it shortly to Local Governments for consideration of the suitability of its provisions. It might also be desirable to take fresh powers to deal effectively with such activities as intimidation and picketing. It will, however, be understood that the Government of India do not propose to approach the Secretary of State for his concurrence in taking powers of this nature unless they are fully satisfied that the existing law is inadequate to deal with the actual situation.

11. In conclusion I am to deal with the difficult question of the co-ordination of policy and action throughout India generally. In paragraph 7 of the Home Department letter of 21st February 1929, it was stated that the Government of India would desire to be informed beforehand of any action which the Government in Council might propose to take which might affect the general situation, and this must clearly be the underlying principle to be observed. At the same time, the Government of India are very anxious that the discretion of Local Governments to deal promptly with difficult and dangerous situations in accordance with their judgment of local requirements should not be hampered. They believe that in practice difficulties are not likely to arise, provided there is the freest interchange of views and information between the Government of India and Local Governments. For their part the Government of India will endeavour to keep Local Governments closely in touch with the situation as they view it. The general lines of policy to be followed have been indicated above. Within those general lines the Government of India are confident that the best results will be obtained by leaving to Local Governments the greatest possible discretion. There are, however, certain necessary limitations. In the first place, the Secretary of State, who is in full concurrence with the

general lines of policy above indicated, is aware that action on these lines will inevitably evoke criticism in some quarters. He is prepared to deal with that criticism. But in order to enable him to deal with it effectively and to keep His Majesty's Government informed of all developments, he has asked that he may be supplied as fully and promptly as possible with information as to measures actually taken and their effects. He has added that he hopes by means of these reports to learn in advance of any intention of using the existing extraordinary powers by which he means—

- (a) the use of Acts which, while now on the statute book, are normally dormant and require special action to bring them into operation, *i.e.*, the Seditious Meetings Act and Part II of the Criminal Law Amendment Act, and
- (b) the use of powers such as Bengal Regulation III of 1818 and the corresponding Madras and Bombay Regulation. *(The Secretary of State has not made it clear whether he desires to be informed beforehand of any intention of using the powers under section 11 of the Bengal Criminal Law Amendment Act, but it seems obviously desirable that any such general intention should be communicated in advance, though not necessarily specific details.

At the same time the Secretary of State has made it plain that, if the Government of India think it necessary, they have his full authority to act first and inform him afterwards. For the general development of the situation the fortnightly demi-official reports from Local Governments will suffice to keep the Government of India and the Secretary of State informed. But the Government of India would request that any special developments or incidents may be reported to them at once by telegram, and they hope by such telegrams and the regular fortnightly reports that they can count on receiving information beforehand of any intention to use the extraordinary powers described above. Orders under Bengal Regulation III of 1818 of course can only be issued by the Governor-General in Council, and in the Home Department letter No. D-1149, dated the 15th August 1923, it was requested that resort to the State Prisoners Regulations in Madras and Bombay should not be had without the previous approval of the Government of India, except in urgent circumstances in which previous reference would involve dangerous delay. These instructions still stand. The application of the Prevention of Seditious Meetings Act, 1911, requires by the terms of the Act the previous approval of the Governor-General in Council. There remains, therefore, only Part II of the Criminal Law Amendment Act to be considered. In the Home Department letter No. D-2699, dated the 22nd August 1929, a request was made that having regard to the conditions then existing Local Governments should make a prior reference to the Government of India before action is taken to declare an organization or association unlawful under this Act. This request was made at a time when the general situation called for especially careful handling and local situations were not of such a critical nature as they may frequently be expected to be during the coming year. The Government of India in present conditions do not wish to insist on the necessity of a prior reference before action is taken under this Act. But they must emphasise the great desirability of Local Governments communicating in advance to the Government of India any probability or intention that the powers under this Act should be employed. In case of an emergency which admits of no delay the Local Government will of course act on their own responsibility, informing the Government of India immediately of the action that has been taken. In the second place, while Local Governments have a free hand to institute prosecutions against any persons, whose political importance is primarily

provincial, the Government of India feel it necessary to request that action should not be taken without previous consultation, with them against the comparatively few persons, such as Mr. Gandhi, Pandit Motilal Nehru and Pandit Jawaharlal Nehru, whose position is of all-India importance.

12. The Secretary of State has suggested that in dealing with this extremist movement an endeavour should be made as far as possible to carry moderate opinion with Government in enforcing the law. That is an object the importance of which the Government of India fully realise and commend to the attention of Local Governments. But they cannot conceal from themselves the fact that it is unlikely that firm action against the extremists will receive open support from the more moderate political elements and, while giving due weight to the consideration which the Secretary of State has emphasised, they wish to make it plain that the first duty of Local Governments is to ensure the due maintenance of law and order in face of this dangerous menace to the foundations of the State.

No. 2.--LETTER TO ALL LOCAL GOVERNMENTS, No. 344 OF 1930, DATED NEW DELHI, THE 26TH MARCH 1930.

I am directed to refer to the Home Department letter No. 113, dated the 30th January 1930, in paragraph 4 of which an attempt was made to forecast the possible lines on which congress activities might develop in the near future. It was anticipated that after a period of preliminary propaganda movements would be initiated which would bring the Congress workers into active conflict with the law. The time appears to be now approaching when the start of such movements may be generally expected. As has been reported already in the press, the Congress Working Committee last month authorised Mr. Gandhi and his associates who believe in non-violence as an article of faith, to start civil disobedience as and when they desire and in the manner and to the extent they decide. The first stage in the campaign is the movement in Gujarat which Mr. Gandhi has launched. The second stage is to be initiated either on Mr. Gandhi's arrest or apparently, if that is delayed, on his giving the word. As this stage the area of the campaign is to be widened and the Provincial Congress Committees are to organise civil disobedience in particular areas of a kind suitable to the conditions of those areas. In the resolution passed by the All-India Congress Committee at its meeting on the 21st March, however, the hope was expressed that provinces would, as far as possible, concentrate on a civil breach of the salt laws. The programme is that this second stage should develop gradually into a general mass movement. The Provincial Congress Committees are believed now to be considering the kinds of civil disobedience they can offer, and to be preparing for it by the enlistment of Congress members and volunteers.

2. It seems likely that the earlier forms of civil disobedience will be on the Satyagraha model, the object being to offer large numbers of persons for arrest on some comparatively trifling or technical offence. The aim of such movements is to enlist public sympathy by the display of the virtues of non-violence and patriotism, and to embarrass the administration by forcing them to arrest the Satyagrahis in such numbers as to be unmanageable and, if possible to provoke the forces of Government into unnecessary violence or roughness. Efforts will no doubt be made to find occasions for conflicts of this kind, in which the position of Government can be attacked with some plausibility. The aim of Government must in the first place be to avoid presenting opportunities for such movements and particularly for those in which the position of Government lends itself to misrepresentation or into which an element of religious feeling can be introduced. If, however, occasions are found for the inauguration of such movements it should be the aim in the second place to endeavour to deal with them by expedients which will not involve wholesale arrests. Prompt action against

the leaders, where this is feasible, may have the effect of discouraging or disorganising a movement. There may, however, be occasions on which there is no escape from the necessity of meeting the Satyagrahis on the ground of their own choosing and dealing with them by the arrest of large numbers.

3. At the beginning activity may be concentrated largely on the salt campaign, at any rate in those localities where there are any possibilities of working on these lines. Civil disobedience, however, directed against the salt laws does not appear to offer particularly favourable ground for these tactics. If attempts are made to manufacture salt, the obvious remedy of Government would seem to be in the first instance to confiscate the illicit salt and the materials and utensils used for its manufacture or to prevent the salt being removed without payment of duty or in other ways to neutralise the practical effects of a breach of the law. If this object can be secured, it would seem to be unnecessary to arrest persons merely on the formal ground that the law has been broken, and prosecutions could be confined to such leaders as it might suit Government to deal with. It cannot, however, be expected that efforts will be restricted to lines which are found to be unprofitable and it therefore seems likely that forms of civil disobedience will be devised which will necessitate physical removal of the demonstrators from some place or prevention of their access. Such forms of civil disobedience are more difficult to handle, and it may not be possible to avoid being drawn into a struggle involving a large number of arrests. The experience which has been derived from movements in the past which have developed on these lines may be of value to local Governments. I am to enclose a note, which shows the action taken at Bhai Pheru in the Lahore district during the Akali agitation in 1924-25. This is an extreme instance of perseverance in these tactics and if, as seems probable, the Congress efforts are largely localised, a movement on this scale may not be likely to develop in present conditions. But the fact that this was such an extreme instance lasting for some 18 months, during the course of which over 6,000 Akalis were arrested, resulted in the accumulation of a fund of experience which is likely to be useful in dealing with movements of a more restricted character. The flag agitation at Nagpur in 1923 provides perhaps an example which is likely to be nearer the conditions that may possibly be anticipated. That agitation lasted for approximately four months. The District Magistrate had issued an order under section 144, Criminal Procedure Code, prohibiting processions without his permission in the residential part of the civil station. Day after day parties of varying numbers sought to enter the prohibited area with the object of breaking the order and forcing their own arrest. Numerous volunteers of all ages and castes were brought to Nagpur for the purpose of defying the order and when the local and provincial sources of recruitment began to fail, further volunteers were enlisted from other provinces. The supply of local volunteers from Nagpur was practically exhausted after about one month. Thereafter considerable numbers of ignorant and illiterate persons were brought in from the other districts of the province; but after some three months from the commencement of the agitation these sources of recruitment were practically exhausted. It was then that volunteers from other parts of India were brought in. The agitation was not terminated, as at Bhai Pheru, by exhaustion of the number of volunteers, but by agreement.

4. Though every effort should be made to avoid being drawn into struggles of this kind, it is clear that it may be possible as stated above, to force Government into a position in which there is no remedy except to arrest large numbers of persons and to continue arresting them until the supply of volunteers is exhausted. The struggle develops on both sides into a test of endurance. It is evidently very desirable that the basis of such a struggle should as far as possible not be one in which the position of Government is open to reasonable attack. The following are among the

chief lessons that can be derived from the experience of the past in handling such movements:—

- (a) If bands of volunteers are marching from various places to the scene of the struggle, it will probably be found, as it was found in the Punjab, that it is wiser not to deal with them as a whole until they have reached their destination. The attempt to deal with them during the course of their march means the dispersal of police, the danger of unfortunate incidents and the organization of special arrangements at different places. It is easier to have arrangements fully elaborated at the point of attack. At the same time, it was found that certain steps were possible in the Nagpur agitation to prevent the recruitment in districts of volunteers. It must be remembered, however, that these volunteers were to a large extent ignorant persons who had no comprehension of the movement, whereas now any movement carried out is perhaps more likely to be supported at any rate in the early stages by regular Congress volunteers.
- (b) So long as the movement continues non-violent, the minimum of force should be used. The use of force against those who are not themselves violent immediately alienates public sympathy.
- (c) Care must be taken to provide adequate jail accommodation and to see that arrests do not result in serious congestion in the jails.
- (d) Arrangements for prompt trial and prompt disposal of prisoners after sentence are necessary.
- (e) The treatment of young boys and women will require to be thought out with special care.

5. It will be understood that this letter is concerned merely with the broad form of civil disobedience which is usually known as satyagraha. Movements of a different and on the whole of a more formidable type, which may be expected at some later stage, have been dealt with in the notes forwarded with the Home Department letters No. D. 737-Political, dated 25th March, 1929, and No. D. 737-Political, dated 7th May, 1929.

NOTE ON THE BHAI PHERU MORCHA.

Bhai Pheru is a small village in the Lahore district. There was a dispute between the Akalis and the Mahants regarding the local Gurdwara. Some Akalis forcibly seized land cultivated by tenants of the Mahant. Action was taken under section 145 of the Criminal Procedure Code, and possession was restored to the tenants. An order was passed under section 145(6) forbidding disturbance of the possession and any one who attempted to disobey this order was dealt with under the Indian Penal Code. This order was the basis for the arrest of between six and seven thousand Akalis during the course of about 18 months. The procedure adopted by the Akalis was to send a party each day to the land in question. The size of the party was usually between 10 and 20; but on one occasion a Jatha of 500 made the attempt. As soon as the party arrived at the spot, the police enquired from it the object of its visit. They read out the order forbidding disturbance of the possession and directed the party to leave the spot. When the party refused, it was declared an unlawful assembly, and if it did not leave, the members were arrested and were then tried under the relevant sections of the Indian Penal Code.

2. The main principles observed in the course of this long drawn struggle were as follows:

- (a) Special Magistrates were appointed for the trial of the accused, it being a matter of great importance to complete the trials as

rapidly as possible. Ordinarily the arrest was made on one day, the trial was held on the next day, and on the 3rd day those convicted had been removed to a regular jails. The under-trial prisoners were kept in a camp sub-jail, which was in fact a barbed-wire entanglement.

- (b) The accused were given an opportunity to ask for pardon at any time before judgment was pronounced. The release of the accused on a request for pardon had a demoralising effect on the movement.
- (c) The minimum of force was used by the police in making their arrests, and care was taken that they complied strictly with the requirements of the law. Unless it was necessary to disperse a party or crowd because of their violent attitude, arrest was the ordinary procedure and not dispersal.
- (d) an efficient system of motor transport was organized for the conveyance of prisoners and arrangements were also concerted with the Railway in regard to their transport by rail.
- (e) With regard to jail accommodation, special attention was concentrated on the following points:—firstly, that no prisoner should be sent to jail whom it was unnecessary to send, and secondly, that no prisoner should be kept in jail longer that it was necessary to keep him.

With regard to the first point, it was found that there were always a number of young, aged, infirm or faint-hearted, who were not eager for prison and could be released at the rising of the Court without any danger of their returning to the struggle. Such persons were not in evidence at the beginning; but as enthusiasm waned they tended to become more numerous. Fairly long sentences were asked for in the case of ringleaders, and sentences of varying length on the others. Generally speaking it was found wise that the majority of sentences should be of three months or less and that there should be a large number of sentences of about a month. The object aimed at was that after the movement had been in operation for about three months the outflow from the jails should be little in defects of the inflow. If all the initial sentences had been long ones, with the idea of being deterrent there was a danger that the jails would have been blocked and that there would have been a far larger number of prisoners than was necessary. There was of course the possibility that prisoners who were given comparatively short sentences would promptly return and offer themselves again for arrest. That was a point which had to be watched.

- (f) It was not found that the infliction of fines was of any great value. The convicts almost invariably refused to pay, and although at a fairly late stage the authorities were able to bring pressure on a considerable number by the attachment and sale of their property, it was open to doubt whether this was worth the trouble involved.
- (g) A point of great importance was that the police should keep their temper when making arrest and not use more force than was absolutely necessary. Members of the crowd deliberately tried to irritate and annoy them. But when these tactics failed it was found to have a most disheartening effect on the movement.

No. 3.—LETTER TO ALL LOCAL GOVERNMENTS AND THE CHIEF COMMISSIONER, NORTH-WEST FRONTIER PROVINCE, No. D. 2440/POLITICAL, DATED THE 14TH MAY 1930.

I am directed to refer to this department letter No. 1042, dated the 16th June 1921, addressed to the Chief Secretary to the Government of Bihar and Orissa (of which a copy was forwarded to you under this department endorsement No. 1043, dated the 15th June 1921). In paragraph 4 of that letter it was laid down that active support or advocacy of the non-co-operation movement, the professed object of which was the subversion of Government established by law in British India, constituted grave misconduct within the meaning of article 351-C. S. R., and that it was within the competence of the local Government to withhold or withdraw the pension of any retired officer who, after a warning, persisted in such support or advocacy.

The position has now been re-examined with reference to the civil disobedience and allied movements, which aim at the subversion of Government established by law in British India, and I am to say that in the opinion of the Government of India, active support or advocacy of such movements should be held to constitute grave misconduct within the meaning of article 351-C. S. R., and subject to the considerations set forth in paragraph 4 of the letter referred to in the preceding paragraph, action should be taken under that article if in the opinion of the local Government it is necessary to do so.

Endorsement No. D. 2440/Political.

Copy forwarded to the Foreign and Political Department for information.

No. 4.—OFFICE MEMORANDUM TO (1) ALL DEPARTMENTS OF THE GOVERNMENT OF INDIA. (2) CHIEF COMMISSIONERS, DELHI, COORG AND ANDAMANS AND THE DIRECTOR OF PUBLIC INFORMATION, DIRECTOR, INTELLIGENCE BUREAU, AND PUBLIC SERVICE COMMISSION, No. D. 2440/POLITICAL, DATED THE 14TH MAY 1930.

It has been brought to the notice of the Government of India in the Home Department from time to time that Government servants employed in the Departments of the Government of India and their attached and subordinate offices have been taking part in, or assisting by their presence, political meetings, in furtherance of movements for the subversion of Government by law established. The undersigned is directed to invite your special attention to rule 23 (1) of the Public Servants' Conduct Rules, under which, subject to the provisions of rule 22, a Government servant is precluded from taking part in, or subscribing in aid of any political movement, and to say that it is most undesirable that any Government servant should, by his presence give encouragement to meetings designed to promote subversive propaganda, or give occasion for the belief that he is in sympathy with its objects. I am accordingly to request that all Government servants may be warned that disciplinary action will be taken against any one who contravenes this rule by attending meetings in furtherance of the civil disobedience or allied movements, or otherwise taking part in or subscribing in aid of these movements, which aim at subverting the Government by law established. The undersigned is also to request that departments of the Government of India may take prompt action on any such cases which come to their notice.

Endorsement No. D. 2440-Political.

Copy forwarded to all local Governments and Chief Commissioner, North West Frontier Province, with the request that instances of contravention of

these orders on the part of any public servant employed under the Central Government may be reported to the Department under which he is employed.

No. 5.—DEMI-OFFICIAL LETTER FROM MR. H. W. EMERSON, C.I.E., C.B.E., SECRETARY TO THE GOVERNMENT OF INDIA, HOME DEPARTMENT, TO THE CHIEF SECRETARIES TO ALL LOCAL GOVERNMENTS AND HEADS OF ADMINISTRATIONS, No. D.-1018-POLL., DATED THE 15TH MAY 1930.

I am desired to address you in regard to the necessity at the present stage of the political situation of creating an organisation as thorough as possible through official and other agencies for publicity and propaganda. The Government of India in paragraph 9 of Home Department secret letter No. 113, dated the 30th of January 1930, referred to the great importance of instituting a comprehensive system of propaganda to counteract the civil disobedience campaign. Since that letter was written not only have the necessity and field for propaganda increased, but there are indications that the matter may become one of urgent importance. The issue of the Press Ordinance has led a number of newspapers to cease publication, and though it is likely that those which have not been called upon to give security and some that have will gradually resume publication, there are signs that the organizers of the civil disobedience movement will deliberately take advantage of the restricted publicity of news through the press to spread false and alarmist rumours regarding events in India and the acts and intentions of Government. Apart from a development of this kind, the political situation is likely for some time to be favourable to the birth and propagation of extravagant rumours and suspicions. Sensational events have happened during the past few weeks, and there is no guarantee that others will not occur. Government have had to arm themselves with extraordinary powers, and the measures they have taken, or may have to take, may easily give rise to misunderstanding and misrepresentation. It is indeed almost inevitable that facts should be exaggerated and the purport and scope of official acts misinterpreted. In the present state of excitement and expectancy the public are naturally prone to give credence to reports which in ordinary times they would reject, and it may be assumed that every effort will be made by the enemies of Government to use public credulity for their own purposes. During the past few days several instances have come to the notice of Government of the currency of false rumours which may do much harm, if they remain un rebutted. It has for example been reported that the Press Ordinance imposes penalties on the publication of the Koran and other religious books. A report is current among the Muslim community of Bombay (and no doubt of other places) that 300 Muhammadans were shot in cold blood at Peshawar. It is also rumoured that the refusal of certain men of the 2/18th Royal Garhwal Rifles to obey orders was due to the fact that they had already shot 300 Muhammadans and were unwilling to shoot anymore. Again it appears to be generally believed in the North-West Frontier Province that the Sarda Act involves a medical examination of grils of marriageable age, and doubtless similar misconceptions as to the provisions of the Act prevail among Muhammadans elsewhere. The above examples may be taken as typical of the rumours that are likely to gain currency, and it is a matter of the utmost importance that, so far as is possible, measures should be taken to mitigate their evil effects.

2. There is another aspect of the case to which the Government of India attach importance, namely, the desirability of keeping local Governments in close touch with the general situation and, in particular, with events which may have more than local reactions. In normal times a local Government is kept sufficiently informed of events in other provinces partly through the press and partly through the fortnightly reports of other local Governments, and it is only the exceptional cases that it is

necessary to communicate particular events. In existing circumstances, however, there are many incidents of the political situation which are of all-India concern, and an event in one province may have early effects in an adjacent one. The Government of India, doubt whether the normal system of intelligence is adequate to meet the new conditions. It would also appear to be desirable that the District Officer should be in possession of a reasonably up to date appreciation of the general situation partly to assist him in viewing events with a proper sense of proportion and partly to enable him to counteract alarmist rumours and reports.

3. Apart from the necessity of checking the dissemination of false or alarmist reports, there is a wide field for constructive propaganda. It is, for instance, clearly desirable that the main facts leading up to the civil disobedience movement should be kept continuously before the public, who should not be allowed to forget the efforts which have been made, and are being made, to obtain a solution of political problems by constitutional means. The publication of the report of the Statutory Commission and the convening of the Conference will stimulate the discussion of political issues and it is of great importance that the attitude of Government should be correctly and widely represented. In addition to matters of general interest in regard to which propaganda can with advantage be continuously employed, the phases of the civil disobedience movement will supply many subjects on which counter-propaganda, though not necessarily of a continuous character, will be desirable.

4. The above observations suggest that the objects (which of course are not independent of each other) at which the organisation of publicity by the Central and Local Governments should aim are—

- (1) the better co-ordination and more rapid circulation of authentic information,
- (2) prompt measures to remedy or mitigate the evil effects of the dissemination of false or alarmist rumours,
- (3) constructive propaganda.

5. I am now to discuss the practical measures which may be taken to secure these objects. The Government of India realise that at the present time local Governments are too occupied with other matters to build up an elaborate organization; but they are inclined to think that what is required is not so much new machinery as the more effective use of that which already exists. Their own function will be to co-ordinate. They have endeavoured to keep those local Governments, which were directly concerned, fully and promptly informed of particular events, and they have communicated to all local Governments events which seemed to be of outstanding importance. They will continue to do this and will also be glad to consider any general proposal by local Governments to supplement the supply of information of this description, or any particular proposal made by a local Government at any time to keep it in touch by telegram with any development in which it may be interested. In addition, if local Governments so desire, they are prepared to issue by telegram a weekly appreciation of the situation based partly on the fortnightly reports, in so far as the information contained therein is relevant, but mainly on the knowledge derived from the daily or special telegraphic reports received from local Governments. The appreciation would not pretend to be an exhaustive survey of the situation, and its main intention would be briefly to give salient facts and impressions that were likely to be of value or interest to local Governments and district officers serving under them. They would be prepared to send this weekly report by letter direct to any administrative or executive officer not below the rank of a Superintendent of Police to whom a local Government desired that it should be sent.

6. The Government of India are also ready to act as the co-ordinating agent in keeping local Governments promptly informed of the currency of alarmist or malicious rumours, the dissemination of which is likely to have more than local effects. If, however, they are to assume this responsibility, it will be necessary to ask for the closest co-operation of local Governments, since without this the main object of co-ordination would be defeated. The system, which the Government of India contemplate, is one by which a local Government would communicate immediately to the Government of India the currency of a report or misrepresentation relating to a matter of more than provincial concern which was likely to be used for purposes hostile to Government and the refutation of which was clearly desirable. The Government of India would then communicate the facts to other local Governments together with any suggestions they might have to make for dealing with it. The local Government on their part would take any action they considered desirable and, in particular, would use or not use the suggestions of the Government of India as they thought fit. In cases of particular importance, local Governments would no doubt themselves suggest to the Government of India suitable lines of propaganda for communication to other local Governments. Where the false rumour had its origin in an incident of provincial concern, the local Government would, if desirable, issue a communiqué, while in matters of all-India concern, it might some times be of value for the Government of India to issue one. One advantage of this system would be that local Governments would receive early information of a particular form of misrepresentation and would be able to take steps to counter it before considerable harm had been done. Another advantage would be that all local Governments would be in possession of the relevant facts and so would be able to take more effective action than is now possible. The Government of India have also under consideration the use of broadcasting for the purpose of disseminating correct information.

7. In regard to constructive propaganda, the Government of India are prepared to help in the following ways:—

- (a) They are in close touch with press agencies and with representatives at Simla of some of the leading English papers in India. They are also in a position to get material into the newspapers in England (and to a more limited extent in America). They would be glad to assist local Governments, who have not the same opportunities of press propaganda in India and abroad, to obtain publicity for news of importance.
- (b) They will endeavour to supply to local Governments facts and statistics required to refute economic or other fallacies propagated by anti-Government organizations.
- (c) They will indicate from time to time subjects of current importance in regard to which they consider intensive propaganda to be desirable.
- (d) They will supply to those local Governments, who so desire, specific suggestions regarding the lines which propaganda on particular subjects might take.

In regard to the form of propaganda last mentioned, the intention is that "the lines for propaganda" should be framed by the Department of Public Information assisted by one or more officers on special duty and acting under the general supervision and control of the Home Department. No attempt would be made towards an exhaustive survey of the subject, and the main object would be to state simple (and usually obvious) facts and arguments which might be used as the basis of articles in, or letters to, the press, or in talks between Government officers and visitors. They

would not always be suitable for general use; but local Governments could reject those which were inappropriate to local conditions and, it is hoped, would add others which were appropriate.

8. I am now to suggest for the consideration of local Governments some of the various ways in which they may assist. In doing so I am to explain that the Government of India are aware that most of the methods suggested are already in operation in one province or another, and that the value and the form of propaganda must vary with local conditions and with the agencies through which it can be carried out. They do not wish either to suggest the creation of new organizations of an elaborate kind or to fetter in any way the discretion of local Governments, and their main object is to obtain by co-ordination and concerted action the maximum benefit from the agencies which now exist—

(1) The attention of local Governments is invited to the value and importance of early publicity either by means of a communiqué or through indirect communication to the press of facts, so far as they can be ascertained relating to any incident or event of a sensational character, that is likely to be the object of alarm or misrepresentation.

(2) The prompt communication to the Government of India of alarmist rumours which are likely to be of more than an ephemeral character will ensure that the information will be passed on with as little delay as possible to other local Governments so that counter-measures may be taken without delay. If the report is accompanied by constructive suggestions its value will be enhanced.

(3) District officers can do much in talks with visitors and in other ways to dispel alarm, correct misunderstanding and present the Government case, and the value of their work in these directions will be increased if they are kept informed of facts and supplied with suggestions in regard to the lines on which propaganda may be carried out with advantage.

(4) Friendly newspapers can be utilised for the publication of suitable articles or letters, and it is sometimes possible to get these in hostile papers, if they are skilfully written.

(5) In the case of pronouncements of special importance, *e.g.*, a statement of policy by His Excellency the Viceroy, the revenue and other agencies can be utilised for the distribution of translations on a large scale.

(6) Loyal associations can be utilised to correct false rumours, to keep the true facts before the public and to expose the folly and the dangers of the civil disobedience movement.

(7) If local Governments will supply the Department of Public Information with—

(a) suggestions for propaganda,

(b) pamphlets or other propaganda material relating to matters of more than provincial concern,

the Department will endeavour themselves to make use of them and will pass them on to other local Governments to whom they are likely to be of value and who desire that this should be done.

9. I am to request that if the Governor in Council has
you have no objection early effect may be given to the proposals contained in this letter so far as they concern local Governments and so far as it is practicable to do so. I am to say that the Government of India will welcome any practical suggestions which the Governor in Council
you may wish to offer.

No. 6.—TELEGRAM P., TO ALL LOCAL GOVERNMENTS AND ADMINISTRATIONS (TO PUNJAB BY EXPRESS LETTER) No. 1828-S., DATED THE 4/5TH JUNE 1930.

Reference our telegram No. 1668-S., of 24th May. Government of India are in agreement with the consensus of opinion shown in replies from local Governments that the Criminal Law Amendment Act should not at present be used against Congress volunteers and that there should be no policy of uniform declaration of Provincial and District Congress Committees irrespective of local circumstances. At the same time general conclusion of Government of India is that the situation is one which requires that we should neglect no effective means by which the civil disobedience movement can be weakened. They therefore approve of the use of the Criminal Law Amendment Act against War Committees, Nau Jawan Bharat Sabha Committees and other organising bodies of the civil disobedience movement, including, if necessary Provincial or District Congress Committees, whenever in the judgment of the local Government such action is likely to be effective and the local situation requires it. In such circumstances Government of India will not require the previous communication to them of the intention of the local Government to take such action, though they would be glad to receive information as soon as any action has been taken. This modifies what was said in paragraph II of Home Department letter No. 113 of 30th January last. While conveying this approval, Government of India of course wish to make it clear that they do not desire to urge local Governments to use the Criminal Law Amendment Act where local circumstances do not seem to require it.

2. The Government of India are considering whether any direct action is required against the Working Committee of the Congress and, in consultation with the Government of the U. P. are exploring the question of whether it may be desirable to proceed against the members on the basis of particular activities such as instigation to breach of salt laws rather than to proclaim the Committees as such.

No. 7.—LETTER TO ALL LOCAL GOVERNMENTS AND ADMINISTRATIONS, No. S.-1080, DATED THE 8TH JULY 1930.

I am directed to say that the Government of India have had under consideration the representations in connection with the Indian Press Ordinance of 1930 made by the members of a small deputation which waited on His Excellency the Viceroy on June 20th last. While the Government of India are not able to accede to the main requests presented by the deputation, they are disposed to think that there are several matters connected with the administration of the Ordinance, in which some relief can be given to meet cases of genuine hardship. I am to make it clear that the Government of India do not contemplate any amendment of the Ordinance, and that it is their desire that it should continue to be administered so as to achieve the objects with which it was promulgated, namely, the prevention of the misuse of the press for the purposes of encouraging seditious and revolutionary activities and of promoting the civil disobedience movement. Subject to this essential condition they desire to make the following suggestions for the consideration of local Governments.

2. The Government of India understand that when the Ordinance was first promulgated, several local Governments demanded substantial security in regard to certain presses and newspapers. In many cases the security required was not deposited and the newspapers and presses were accordingly closed down. The Government of India do not wish to suggest that there should be any reduction of the security demanded unless the local

Government is fully satisfied that any concession that may be granted will not be abused. It appears to them, however, not improbable that, in view of the situation which existed at the time of the promulgation of the Press Ordinance, some cases may have occurred in which the security demanded was in excess of the amount which, having regard to present circumstances, might now be regarded as sufficiently preventive and, if so, some review of the amount of security might be justified.

3. When security is demanded in regard to an existing press or newspaper under sections 4(1) and 8(3) respectively, of the Press Ordinance there is no legal obligation on the local Government to state the grounds on which the security is required. In this respect the Ordinance follows the provisions of the Press Act of 1910. The Government of India have no doubt however that local Governments before taking action under these sections satisfy themselves, after consulting their legal advisers that the press or newspaper has come within the provisions of the Ordinance by the printing or publication of matter prescribed in section 4 (1) of the Ordinance.

4. The Press Act of 1910 contained a provision whereby the publisher of a newspaper could not be required to furnish security in regard to the newspaper, if he were registered as the keeper of the press where the newspaper was printed. This provision was deliberately omitted from the Press Ordinance, since the administration of the Press Act showed that it facilitated the evasion of the purposes of the Act. The Government of India, however, consider that where there is no reason to suppose that an attempt is being made to evade the provisions of the Ordinance, the fact that the same person is the publisher of a newspaper and keeper of the press where it is printed, might be taken into consideration in fixing the amount of security whether this is demanded in respect of the press only or of both the newspaper and the press.

5. In accordance with sections 3(1) and 8(1) of the Press Ordinance the Magistrate may, for special reasons to be recorded by him, dispense with the deposit of any security. The Government of India consider that this discretion should be exercised freely in cases in which the deposit of security would be an undoubted hardship. Cases of this kind are small hand-presses, in regard to which there is no reason to suppose that they will be used for the production of any undesirable matter and such periodical works as school college or religious magazines and other publications which, though technically newspapers, do not contain anything of a political character. There are other circumstances in which the deposit of security may properly be dispensed with, for instance, when fresh registration is rendered necessary by the ownership of a press or newspaper passing by inheritance, or by a change in the premises occupied, or in the personality of the paid servant of the proprietors who is registered as publisher or keeper of the press. If the press or newspaper is well conducted, and there is no reason to suppose that the particular transaction involving fresh registration will be followed by a breach of the Press Ordinance, it is reasonable that the Magistrate should exercise his discretion and waive the deposit of the security.

6. Complaint has been made that owing to the wide terms of section 4 of the Ordinance it is difficult for a responsible editor to be sure that he is not laying himself open to penalties, and that a constant strain of anxiety is placed on those who desire to conduct their newspapers in a reasonable way. One remedy for this might be that local Governments should assist with their advice those who find difficulty in forming an opinion as to whether a local Government would regard particular matter as coming within the mischief of the Ordinance, and it is understood that

one local Government at least has appointed an officer to advise on questions of this nature and generally to act as a liaison officer between the Government and the press. The Government of India however are inclined to think that unless the local press themselves desire the appointment of such an officer, they might be apt to regard him with suspicion as a censor of public news and they therefore commend this particular procedure to the consideration of local Governments only where there is a clear desire on the part of the press that it should be introduced. They consider, however, that it might contribute to the smoother working of the Ordinance if editors were given, when they so desired, suitable opportunities of seeking the personal advice of a member of the Local Government or of an officer to whom this duty was assigned, and that an arrangement of this kind might sometimes succeed in effecting the purpose of the Ordinance by admonition or warning when it would otherwise be necessary to demand or forfeit security.

7. Local Governments are no doubt fully alive to the desirability of showing that they distinguish, where practicable, between those newspaper editors who are prepared to be reasonable and those who are not, and they might accordingly find it useful from this point of view to invite responsible editors to make such representations as they from time to time might desire, while making plain that Government intended to use the powers of the Ordinance, effectively in cases that demanded it.

No. 8.—TELEGRAM TO THE GOVT. OF BIHAR AND ORISSA, No. 2632-S., DATED THE 7TH AUGUST 1930.

Government of India recognise that there is some ambiguity in existing instructions as contained in their telegram No. F. 510 of 8th March 1922 and para. 9 of their letter No. F. 201, dated the 23rd August 1922, both of which were addressed to all local Governments, and that your telegram of 28th July therefore regarding infliction of punishment of whipping on prisoners convicted in connection with political movement requires detailed reply.

2. Owing to actual occurrence of cases of indiscipline in jails and to apprehensions that spirit of indiscipline will spread, Government of India consider that prior reference in all cases to local Governments involves definite danger of serious consequences. At the same time, they wish to emphasise the fact that public feeling against the infliction of this form of punishment on political prisoners is very strong and that any abuse of its exercise is likely to arouse public sympathy with Civil Disobedience movement.

3. In regard to prisoners convicted for offences connected with political movements therefore they desire that the following principles should be observed:—

Firstly, whipping should only be inflicted when the maintenance of jail discipline is at stake.

Secondly, except with the previous sanction of the local Government whipping should not be inflicted on class "A" and "B" prisoners.

Thirdly, where indications are present that necessity of such punishment may occur, a previous warning, which may, however, be of a general character, should be given to "C" class prisoners that they are liable to this punishment.

Fourthly, it is left to local Government's discretion to decide whether they will insist on their previous sanction being obtained before

class "C" prisoners are whipped, but they desire that if their previous sanction is not required, the Jail Superintendent should first obtain the concurrence of District Magistrate, and also that if District Magistrate, considers that social status of offenders and other relevant considerations would have justified his inclusion in class "A" or "B", he should refer the case for the prior sanction of the local Government.

Fifthly, the local Government should also issue instructions to the effect that the infliction of whipping on "C" class prisoners is promptly reported to them, and should satisfy themselves by reference to such reports that District Magistrates are not abusing the discretion vested in them.

4. Having regard to fact that infliction of whipping on "C" class prisoners is subject to less safeguards than in case of "A" and "B" class prisoners, the local Government will no doubt appreciate the desirability of careful classification of persons convicted in connection with civil disobedience or other political movement.

No. 9.—ENDORSEMENT No. D.-5515-POLL., DATED THE 9TH AUGUST 1930.

A copy of the undermentioned papers is forwarded to all Local Governments and Administrations (except B. and O.) for information and guidance—

Telegram from the Government of Bihar and Orissa, No. 4221-C., dated the 28th July 1930.

Telegram to the Government of Bihar and Orissa, No. 2632, dated the 7th August 1930.

Telegram from the Government of Bihar and Orissa, No. 4221-C., dated the 28th July 1930.

Extensive arrests for civil disobedience has led to crowding of jails and discipline is in consequence most difficult to maintain. Hooligans supply considerable proportion of volunteers and incitement to disobey orders of prison authority is becoming common. We consider it necessary now to permit whipping of "C" class prisoners for such offences after reference to District Magistrate by Jail Superintendent but will still require sanction of Government before this form of punishment is inflicted on "A" or "B" classes. Have Government of India any observations.

No. 10.—DEMI-OFFICIAL LETTER TO ALL LOCAL GOVERNMENTS AND ADMINISTRATIONS, No. D.-4319-POLITICAL, DATED THE 21ST AUGUST 1930.

In paragraph 8 of Mr. Emerson's Secret letter No. D.-1018-(Poll.), dated 15th May 1930, some of the various ways in which local Governments might assist in promoting publicity and propaganda were suggested and the replies of local Governments and heads of Administrations show that those methods, in varying combinations, are being given trial with apparent success in each of the provinces and administrations. Thus, to take a few instances, the Government of Bihar and Orissa have been issuing three times a week in English and in the three vernaculars of the province a 'News Bulletin', one part of it being devoted to the contradiction of false rumours; the Chief Commissioner of Delhi, following the disappearance of the local newspapers of Delhi, has been issuing a printed 'Daily Provincial Bulletin', which has now reached a circulation of about 3,000; the Government of Madras distributed in that Presidency a brief leaflet entitled 'History of the Salt Tax'; various Directors of Information have issued

brief statements to the Press from time to time; the Chief Commissioner of Urein issued a Propaganda Pamphlet (copy enclosed) dealing with the situation in terms of that province which, he says, has done considerable good; and the Government of Bihar and Orissa have made special arrangements for the issue of pamphlets to the aboriginals of the Ranchi district written by authorities who understand their line of thought. In the Punjab among other methods of propaganda non-officials of local influence have been encouraged, with considerable success, to oppose at public meetings those who speak in favour of the Civil Disobedience Movement. Again, Aman Sabhas and other non-official organisations have been started in several provinces under the encouragement of District Officers and the Government of Bihar and Orissa successfully asked the Legislative Council for a sum of Rs. 20,000 to provide Rs. 1,000 for each district to meet preliminary expenses, or expenses not covered by local subscriptions, in connection with Aman Sabhas started in that province.

2. Three suggestions, not specially mentioned in Mr. Emerson's letter, have recently been put forward by non-officials desirous of assisting Government in this matter. One is that it may be found practicable to arrange with the editors of some vernacular papers to reserve a page in the paper for Government for communiques, etc. The Editor would receive a monthly payment and print in this page whatever Government sent to him; justifying himself, if he wished to do so, *vis-a-vis* his clients by a declaration that he took no responsibility for the items published on the page reserved for Government. The suggestion is open to the criticism that this method would possibly defeat its own ends since the tendency to discount statements by Government, simply because they are statements by Government, is nowadays so strong; this objection would not apply if the insertion of Government News could be arranged without the knowledge of the reader that it was derived from official sources.

3. Another suggestion is that Governments might arrange for the regular distribution, on payment by Government, of selected newspapers to their officers as a means *inter alia* of assisting those newspapers whose policy is opposed to the Civil Disobedience Movement. If it were possible to supply subordinate revenue officials with vernacular newspapers of this character, the further object would be served of propagating sound ideas. This suggestion might possibly be pursued with success in some quarters.

4. The third suggestion is that, as distinguished from, and generally in preference to, leaflets or posters emanating direct from Government, a particularly effective form of propaganda would be vernacular leaflets or posters, in very simple language, issued from private presses and if necessary at the expense of Government expressing the views of non-official leaders of public or religious opinion under whose signature the leaflets would issue. Useful work in this direction has already been done in one province where such leaflets have been posted direct to about 30,000 persons selected from the provincial electoral rolls; and there are doubtless sources of non-official assistance that can be tapped in every province. It would add to the effect of such leaflets if they gave prominence, each in its own context, to pronouncements by religious or temporal leaders of the community for whom they are drafted and to selected pronouncements made by the Secretary of State, the Viceroy, Governors of Provinces and other high officials. The suggestion appears to the Government of India to be one which can be adopted with profit wherever the circumstances permit.

5. The Government of India would be glad if they could continue to be informed of the steps taken by the local Government/you in connection with publicity and propaganda, and to receive from time to time any suggestions or queries which the local Government/you may desire to make. In particular they would be glad to receive copies of leaflets which are of more than provincial interest.

No. 11.—TELEGRAM TO ALL LOCAL GOVERNMENTS AND ADMINISTRATIONS, No. 2998-S., DATED THE 5TH SEPTEMBER 1930. (REPEATED SECRETARY OF STATE FOR INDIA, LONDON).

Important—*(Reference our telegram No. 2816, dated the 23rd August, we have addressed following telegram to local Governments. *Begins.*)

Home Department telegram of 23rd August, regarding notification of Congress Working Committee as unlawful association. Government of India now desire to communicate their policy in regard to the Committee. Main object in their opinion should be prevention of Committee from functioning as the directing and controlling agency of the Civil Disobedience Movement. They desire for this reason to be kept informed of the activities of the Committee particularly by those local Governments in whose jurisdiction the Committee may from time to time locate their headquarters. This information may be imparted either direct or through D. I. B. They suggest that as a matter of course orders under section 26 of the Post Office Act, should be issued in regard to correspondence of present and future members and chief officials of the Committee with the objects of obtaining information regarding the activities of the Committee and of securing evidence of membership in case this is later necessary.

2. Government of India do not think that in regard to action against individual members that ordinarily it will be to advantage of Government to proceed as a matter of routine against new members as soon as they are nominated even if evidence of membership is immediately available. Result would be the nomination of fresh members and a series of prosecutions against individuals, some of whom may be comparatively harmless and may be safely left alone. So far as individuals are concerned, they consider best policy is to wait for overtact and to limit prosecutions to members whose activities are definitely harmful. Provided latter condition is satisfied, Government of India do not think it necessary that activities should be directly connected with membership of Committee in order to justify prosecution under Criminal Law Amendment, Act. If proof of membership is available, resort may be made to the Act in order to remove an individual who is definitely promoting the Civil Disobedience Movement. Subject to above observations, Government of India leave to discretion of local Governments to proceed as they may consider necessary against individual members of Committee under Criminal Law Amendment Act or any other Act.

3. In regard to proceedings against Committee as a whole the logical policy is to proceed against all members who deliberately defy the law by holding a meeting or otherwise acting in a corporate capacity. Particular considerations may, however, make it advisable to deviate from this policy. It may, for instance, be desirable to leave women members alone. Or again a stage may be reached when the personnel and influence of Committee are so weak as to make it inexpedient to give it a public advertisement, or, All-India considerations may make it undesirable to take general action at a particular time. Government of India however, wish to make it clear that subject unforeseen developments they contemplate that for the present and unless and until the Committee is not worth powder and shot they will approve of action being taken as a matter of course against the Committee, if and when they corporately defy the law. Unless the local Government concerned has very strong reasons to urge to the contrary, this is the normal course that may be presumed in existing circumstances. Government of India desire, however, in order that course of action may be determined in consultation between the Government of India and the local Government concerned that a previous reference be made to them in the case of action against the Committee as a whole and would request any local Government, which has information that the Committee propose to act in corporate capacity in its jurisdiction to inform them at once. *Ends.*

No. 12.—CONFIDENTIAL LETTER NO. 7293/30-POLL., DATED THE 10TH OCTOBER 1930, FROM H. W. EMERSON, ESQ., C.I.E., C.B.E., I.C.S., TO ALL LOCAL GOVERNMENTS AND ADMINISTRATIONS, (EXCEPT BOMBAY), AND ENDORSEMENT TO THE GOVERNMENT OF BOMBAY AND FOREIGN AND POLITICAL DEPARTMENT.

I am directed to enclose 30/20 copies of the Unlawful Association Ordinance, 1930, which was promulgated on the 10th October, 1930, and of the Statement which accompanied the Ordinance. I am to explain that section 8 is operative in the whole of British India, and that offences under section 17 (1) of the Criminal Law Amendment Act (Act No. XIV of 1908) are now cognizable offences. The other substantive provisions of the Ordinance have been extended by notification of the Governor General in Council under section 1 (2) to the Bombay Presidency only and have been brought into force by the Bombay Government under section 1 (3) in the whole of the Bombay Presidency. I am to explain that the extension of the substantive provisions of the Ordinance other than section 8 to the whole or part of any other province will require the approval of, and notification by, the Governor General in Council under section I (2) and that, in order to render these provisions operative in any area, it will be necessary for the local Government to issue a notification under section I (3).

2. I am to invite the special attention of all Local Governments to paragraph 3 of the Statement accompanying the Ordinance and to convey the wishes of the Government of India in regard to the treatment of third parties, whose interests in property are adversely affected by the Ordinance. In the first place, the Government of India consider that a distinction may properly be made between third parties who—

- (a) have received no prior warning in regard to the liabilities created by the Ordinance, and
- (b) have received such prior warning,

and that a greater measure of consideration may be given towards the former than towards the latter.

In regard to the first class, it is equitable that a third party should be given reasonable compensation, if, in ignorance of the liabilities that have now been created, he leased or hired his property to an association as an ordinary business transaction and not with the intention of assisting the subversive movement with which the association is connected. On the other hand, the Government of India do not consider that there is any moral obligation to grant compensation, even in cases when the parties concerned were not so forewarned, if the transaction was not effected in the ordinary course of business or was clearly made in furtherance of the civil disobedience or other subversive movement.

In respect of the second class, namely, those third parties who, after the promulgation of the Ordinance and with the knowledge of the consequences involved, allow their property to be used for the purpose of civil disobedience movement or other anti-Government movement, there is an initial presumption that they desire to support the movement, and the Government of India consider that cases of this nature should be subjected to specially careful examination before compensation is granted.

It is, moreover, one of the purposes of the Ordinance to impose on the public the obligation to observe in future due precaution against the use of property for the purposes of anti-Government movements, and this object would be defeated if an unduly lenient view were taken of transaction made after the promulgation of the Ordinance, whether these transactions are entirely new or represent the renewal without any legal obligation to renew of previous transactions. While, therefore, the Government of India desire that reasonable compensation should be given to third parties who would otherwise suffer financial loss through no fault of their own, they

equally desire that each case should be examined strictly on its merits, and that compensation should not be granted where there is no equitable claim and the effect would be to encourage any movement hostile to Government or to defeat one of the objects of the Ordinance.

3. In regard to the disposal of property, I am to explain that, so far as immoveable property is concerned, a notified place is, under section 3 (3) of the Ordinance, deemed to remain in the possession of Government so long as the notification under sub-section (1) of the same section remains in force. In cases where satisfactory assurances are given by third parties in regard to the future use of a notified place and it is not required for the purposes of Government, it will be open to the local Government either to withdraw the notification or to restore the property to the party concerned as a licensee of Government, who would remain technically in possession. The latter course would provide an additional guarantee against misuse of the property. Where the property is required for the use of Government and there are equitable grounds for the grant of compensation, this might take the form of payment of a monthly rent. In regard to moveable property, section 4 of the Ordinance provides:—

- (a) for forfeiture by the local Government of articles used for the purposes of the unlawful association, and
- (b) for the use in such manner as the District Magistrate may direct of articles not forfeited by the local Government.

It may perhaps be assumed that local Governments will ordinarily confine orders of forfeiture to cases in which they are not prepared to grant compensation, and that in regard to articles not forfeited, there would generally be a case for return of the articles or for the grant of compensation. Indeed, the Government of India consider that the principle of restoration or compensation should definitely be recognised in regard to articles which have not been used for the purposes of the unlawful association. It is not, however, incumbent on the Magistrate immediately to return such articles. It may, for instance, be convenient in cases where a building is required for the use of Government, *e.g.*, for the accommodation of additional police, for Government either to acquire the furniture at a reasonable price or to pay a reasonable rate of hire for it. Sub-section 3 of section 4 of the Ordinance is intentionally worded so as to give the Magistrate wide powers of disposal and, subject to the understanding that suitable compensation will be granted to an innocent third party, the Government of India do not desire to fetter by executive instructions the discretion of the Magistrate.

A copy is forwarded to the Government of Bombay and Foreign and Political Department for information.

No. 13.—LETTER TO ALL LOCAL GOVERNMENTS AND ADMINISTRATIONS, NO. S.-115/POLL., DATED THE 14TH JANUARY 1931.

I am directed to refer to the Home Department, telegram No. 4133-S., dated the 23rd December 1930, regarding the application of the provisions of the Press and Unauthorised News-sheets and Newspapers Ordinance 1930, X of 1930, and to say that it is the desire of the Government of India that the Ordinance and any Act that may replace it should so far as possible, be administered in the light of the observations communicated in the Home Department letter No. S.-1080, dated the 8th July 1930, in regard to action under Ordinance II of 1930.

No. 14.—SECRET EXPRESS LETTER TO ALL LOCAL GOVERNMENTS AND ADMINISTRATIONS, No. S.-891/31-POLITICAL, DATED THE 11TH APRIL 1931.

The Government of India consider it desirable to state their views on the action it is desirable to take in regard to political activities which come within the mischief of the law. The statement of the Governor General in Council, dated the 5th March, does not contain any suggestion that there would be any relaxation of the administration of the ordinary law in this respect, nor was this contemplated during the course of the conversations that led up to the settlement.

In consequence of the settlement, however, there has been a general reluctance on the part of local Governments to take action which might be represented as provocative and which might have the effect of prejudicing the restoration of normal conditions. The Government of India greatly appreciate the policy pursued by local Governments which has shown conclusively the desire of Government to do all that is reasonably possible to secure an atmosphere of peace.

It is clear, however, that local Governments cannot continue indefinitely to impose these restrictions on the exercise of their legal powers and from reports which they have received, the Government of India have reason to believe that further inaction may result, in some provinces, in serious deterioration of the situation, and may have effects contrary to those intended, by creating the impression that Government are now indifferent to breaches of certain provisions of the law.

They, therefore, desire to state for the consideration and guidance of local Governments certain principles which, in their opinion, it is desirable to observe in present circumstances:—

- (a) So far as possible, the action taken should be under the ordinary law and resort to special powers should be avoided, unless and until there is reason to suppose that the ordinary law will not suffice. In particular, it appears to be desirable in the peculiar circumstances of the present situation that the Government of India should be consulted before use is made of the Criminal Law Amendment Act.
- (b) It is desirable that a common policy should be followed in regard to political activities which are part of a general programme, but which appear to transgress the ordinary law or are otherwise prejudicial to the maintenance of law and order or of the administration; and that therefore the Government of India should be consulted in regard to such activities, if it is proposed to take action against them. Among activities of this kind may be mentioned attempts (if made) to set up parallel institutions or to carry on an organised campaign against the payment of rent or revenue under cover of economic distress.
- (c) The discretion of District Magistrates should not ordinarily be fettered by executive instructions in regard to measures which they may find it necessary to take against the imminent danger of disorder or to bring disorder under control, if it occurs.
- (d) Action should ordinarily be taken against those who incite to violence, unless in the opinion of the local Government, it is unnecessary to take action, having regard to the comparative unimportance of the person concerned, the small effect of his writings or speeches, or other circumstances.
- (e) In regard to offences, not involving incitement to violence, under section 124-A, I. P. C. or allied provisions of the law, regard may properly be paid to the desirability, so far as circumstances may permit, of avoiding, at the present time, action which may

be regarded as provocative, or which is likely to prejudice the settlement. While on the one hand, it is clearly necessary to check any organised campaign of sedition and it will ordinarily be necessary to take proceedings in regard to speeches or writings of a particularly objectionable character, even although they are not part of a regular campaign it is desirable to avoid indiscriminate prosecutions and also proceedings against the more academic forms of sedition. For this purpose, careful regard should be paid to the circumstances of each case, the importance of the person concerned, the effect of his action and other relevant considerations, including the nature of the local or general situation. Generally, the policy to be followed may for the present, at any rate, approximate to that which obtained before the civil disobedience movement began and conditions were more or less normal.

- (f) Having regard to the potential importance of the issues involved, the Government of India may be consulted before local Governments sanction the prosecution of Congress leaders of more than provincial importance for offences under section 124-A, I. P. C. or allied provisions of the law.

2. I am to invite any criticisms of these suggestions which local Governments may desire to make and to request that, in the meantime and subject to such modifications as local conditions may require, the principles above stated may be observed. I am to make it clear that while the Government of India regard them as *prima facie* suitable for adoption in existing conditions, they recognise that the situation may so develop as to require their substantial amendment or amplification, and they desire local Governments promptly to inform them of any changes which may appear to be necessary.

No. 15.—SECRET LETTER TO ALL LOCAL GOVERNMENTS AND ADMINISTRATIONS,
No. D-3007/31-POLL., DATED THE 2ND MAY 1931.

I am directed to refer to Home Department express letter No. S. 891/31-Poll., of the 11th April, 1931, and to say that, while the replies of all local Governments have not yet been received, it appears desirable to make the following observations on certain points that have been specifically raised:—

- (i) In regard to paragraph (b) of the express letter, I am to explain, firstly, that there is no desire to fetter the discretion of local Governments where the circumstances demand immediate action; and secondly, that the Government of India wish to be consulted only when it is proposed to take action of a general character against political activities of the kind mentioned in the paragraph. For instance, if in connection with the setting up of parallel institutions, offences are committed, such as those of extortion and criminal intimidation, the Government of India do not desire to fetter the discretion of Magistrates in taking cognizance of such complaints, by requiring that the District Magistrate should make a reference to the local Government or that the latter should make a reference to the Government of India. If, on the other hand, a local Government proposes to take action of a general character, either under the ordinary law (*e.g.*, the extensive use of section 144, Criminal Procedure Code for some general plan of action as distinct from its application to particular incidents) or by resort to extraordinary measures (*e.g.*, the application of the Criminal Law Amendment Act) the Government of India would ask to be consulted.

Having regard, however, to the fact that, since the issue of the express letter, there have been further indications of an organised campaign against the payment of rent and land revenue under cover of economic distress, the Government of India do not desire to be consulted before any measures under the ordinary law, whether of a general or particular character, are taken to deal with the campaign. They would ask to be consulted before use is made of the Criminal Law Amendment Act or other extraordinary powers.

(ii) In regard to paragraph (c), the question has been raised whether it would be regarded as legitimate for a District Magistrate to use section 144, Criminal Procedure Code to prohibit methods of picketing which are not expressly excluded by the Statement of the Governor General in Council, dated the 5th of March. If the relevant terms of the statement are strictly and honestly observed, it should rarely happen that occasion would arise for such methods of immediate prevention or speedy remedy within the scope of the provisions of this section; but if such circumstances did arise, the discretion of the Magistrate to take action under the section should not be regarded as restricted.

(iii) It has been suggested that paragraph (f) of the express letter should be subject to the qualification that, in the case of acts done by a Congress leader of more than provincial importance within his own province, no reference to the Government of India should be required where it is necessary for a local Government to take immediate action. It would appear that, if the qualification is admitted, it should not be confined to the acts of such Congress leaders within their own provinces, but should be general, and the Government of India accept the desirability of a general qualification of this character, on the understanding that it will be applicable only in cases in which there is clear necessity for immediate action in the interest of law and order.

2. One local Government has referred to the fact that the express letter of the 11th of April does not mention the large field of activity which is illegal, but which requires co-operation of the victims before Government can intervene. The activities, which it has in view, are:—"the methods of boycott, intimidation and extortion by which the Congress party are consolidating their position, with the result that people who have every reason to dread the future domination of the country by the Congress think it wise to subscribe to their funds".

The Government of India appreciate the difficulty of effectively countering these activities, especially in existing conditions when the policy of Government is definitely to proceed on the assumption, unless and until the contrary is clearly established, that it is the intention of the Congress to observe the terms of the Settlement. So long as this assumption is valid, Government cannot take extraordinary action against the Congress as a whole; nor can it take such action against local Congress organisations, unless a very clear case is established. The validity of the assumption is, however, dependent to some extent on the prevalence of the methods above mentioned, and it is possible to conceive such extension of them as, taken with other considerations, would falsify the assumption.

It is for local Governments, with the full sense of the importance of the issues involved, to make representations to the Government of India, if and when they consider this stage has been reached.

In the meantime, the Government of India are inclined to think that a partial remedy will be found in taking steps to bring specific instances of objectionable methods to the notice of responsible Provincial Congress

leaders, or who might be able and disposed to exert a good influence, or by reporting them to the Government of India; in making it clear to the public that they are entitled to, and will receive protection, against illegal activities; and in removing the impression, which was perhaps an unavoidable consequence of the settlement during the past two months that the law is, to some extent, in suspension.

No. 16.—SECRET EXPRESS LETTER TO ALL LOCAL GOVERNMENTS AND ADMINISTRATIONS (INCLUDING AJMER-MERWARA), No. S.-1569, DATED THE 12TH AUGUST 1931.

Please refer to Home Department telegrams No. 1941-S., dated the 4th August and No. 2000-S., dated 11th August. Government of India will inform local Governments by telegram of reply sent by His Excellency the Viceroy to Gandhi's telegram of 11th August and of any important developments.

They have at present no reliable information indicating further course Congress may immediately pursue if they refuse to be represented at Round Table Conference, but they cannot rule out the possibility of an early decision to revive civil disobedience.

2. Government of India have therefore under consideration the action that it might be necessary to take if such a decision were made by the Congress. For the present the proposals for action are to be regarded as provisional and the Government of India desire that they should be communicated only to such officers at the Headquarters of local Governments as are directly concerned in working out the details of action if it becomes necessary to give effect to the proposals. They should not be communicated to this stage to district officers and no action should be taken in regard to them of which the secrecy is not assured.

3. The action under consideration in the event of immediate revival of civil disobedience movement is as follows:—

- (a) Immediate declaration of Congress Working Committee as unlawful association by all Provincial Governments.
- (b) Arrest of Gandhi within first 10 days, unless he dissociated himself from resolution. Action would probably be taken under Regulation III or Bombay Regulation in consultation with Bombay Government. It would be necessary to give at least 4 days' notice to other local Governments of date of arrest. Action under Regulation III might also be appropriate in cases of limited number of important selected leaders.
- (c) Local Governments to be given discretion to declare provincial and local Congress organisations as unlawful, but not Congress as a body. It would probably be desirable that notifications should in the first place be confined to executive committees or organisations but there should be no hesitation in taking similar action in regard to organisations not having executive powers if they actively associated themselves with the Civil disobedience movement and such action was likely to be of value in checking the movement. Similar discretion to be given to local Governments in regard to other subversive associations such as Youth Association and Kirti Kisan Sabha.
- (d) Promulgation of Emergency Powers Ordinance and extension to such provinces as required it with discretion to local Governments concerned to make notifications under clause 1 (3).

- (e) Promulgation of Press Ordinance as soon as campaign began in favour of Civil Disobedience movement. This would probably begin at once and local Governments would be requested to inform Government of India by telegram as soon as condition was satisfied giving brief account of nature of campaign and newspapers involved.

The policy pursued by local Governments in giving effect to provisions of Ordinance should be that stated in Home Department letter No. S.-115, dated the 14th January 1931.

- (f) Promulgation of Unlawful Association Ordinance and extension to such provinces as have asked for it. A proposal is under consideration to include in Ordinance provision to seize funds of an Unlawful Association.
- (f) (l) Promulgation of Unlawful Instigation Ordinance and its extension to provinces which require it.
- (g) In regard to Intimidation Ordinance it is not proposed to recommend promulgation of this unless (a) picketting became more intensive and its methods more objectionable; or (b) its object assumed a definite political form.

Congress might and probably would re-adopt it as a political weapon by a formal declaration in which case the second condition would be satisfied; and promulgation of the Ordinance would at once become a matter for consideration. Otherwise it would be for local Governments to inform Government of India of facts as they emerged which in their opinion required powers contained in the Ordinance.

- (h) The powers conferred by the Emergency Powers Ordinance which are likely to prove of value in initial stages of movement are those contained in the following clauses of draft Ordinance:—

Clauses 3, 4, 20, 22, 23, 24, 25, 26 and 27.

- (i) Of these powers the most important are those conferred by clauses 3 and 4 and penal clause 20.

A proposal is under consideration to extend the period stated in second proviso of clause 3 (2) from one to two months.

If the necessary amendment is approved, it will facilitate the use of the powers for the purposes stated below, but in any case the powers will be capable of such use although not so conveniently.

It is suggested that the powers contained in clause 3 should be used at the outset to arrest selected provincial leaders, where the conditions of the clause are satisfied and whose arrest is clearly desirable in order to prevent an initial impetus being given to the movement. Such action should be followed where this is desirable by an order under clause 4 and if this is disobeyed by a prosecution under clause 20.

Since it may be assumed that orders under clause 4 will be disobeyed in many cases, it will be desirable to arrange releases from custody under section 3 as far as this is possible, so as to avoid a simultaneous impetus to the movement. Adequate scope will exist for this if the minimum period of custody is increased to 2 months and this is the main purpose of the proposal now under consideration.

- (j) It is suggested that apart from the initial action above mentioned the powers under clauses 3 and 4 should be ordinarily use only again persons against whom no prosecutions could be launched

under the law and who are either (a) leaders of more than purely local importance or (b) individuals whose activities if left unchecked are likely to have serious effects.

(k) In brief, the objects of the powers may be stated to be:—

- (1) the prevention by the arrest of leaders of initial momentum being given to the movement;
- (2) the control of the movement by subsequent arrests subject to conditions stated in (j) above.

Those local Governments who have not asked for immediate extension of the Ordinance to their provinces will no doubt consider whether these objects can be attained by other means.

4. Government of India again wish to make it clear that above proposals are to be regarded as provisional. They have communicated them to local Governments at this stage so that the latter may so far as is possible consider the action they wish to take if effect is given to the proposals.

Government of India will inform local Governments of actual policy to be adopted with as little delay as possible after the contingency now under consideration arises, namely, a decision by the Congress to revive civil disobedience movement at once.

No. 17.—SECRET EXPRESS LETTER TO ALL LOCAL GOVERNMENTS AND ADMINISTRATIONS, No. F-14/XII/31-POLL., DATED THE 7TH DECEMBER 1931.

Please refer to correspondence ending with Home Department Express letter No. F-14/XII/31-Poll., dated the 6th of November 1931, relating to the proposed programme of action in the event of a revival of civil disobedience.

2. Ten copies of the latest draft of the Emergency Powers Ordinance are enclosed. Copies of the draft—

- (1) Unlawful Instigation Ordinance,
- (2) Unlawful Associations Ordinance,
- (3) Prevention of Molestation and Boycotting Ordinance,

are also enclosed. These documents should be regarded as secret and their contents should be communicated only to such officers and to such extent as is necessary for the preparation of plans against the revival of the movement. There is, however, no objection to informing selected officers of the existence of a definite programme and of its general scope if local Governments consider that this will be of value.

3. The following changes of substance not previously communicated to local Government have been made in the Emergency Powers Ordinance:—

- (a) Power to regulate water-way traffic has been included in clause 16.
- (b) Power to grant compensation has been added to clause 26.
- (c) A new clause 17 has been added giving power to secure reports of meetings which are, in fact, public, but are held in private places.
- (d) A new clause 67 has been added extending the scope of the Press Act. This will render unnecessary a separate Press Ordinance.
- (e) Former clause 54 relating to the execution of sentences of whipping has been omitted.

It was a provision taken from Martial Law Ordinances, but, on further examination, it has been considered unnecessary when control remains in the hands of the civil authorities.

4. Sub-clauses (2) and (3) of clause 1, which define the extent of the Ordinance, may be amended in accordance with the requirements of the situation, when and if the Ordinance is promulgated.

As at present drafted:—

- (a) They provide for the immediate extension to the whole of British India of clause 67 which extends the provisions of the Press Act,
- (b) They require a notification by the Governor General in Council in order to extend the other substantive provisions of the Ordinance to particular provinces or areas,
- (c) They require a notification by the local Government applying any or all of the provisions of the Ordinance to any area to which they have been extended under (b).

It may be observed that this notification need not include the whole of such area, *e.g.*, if the Governor General in Council has notified Bengal under sub-clause 2, the Bengal Government can notify any district under sub-clause 3.

5. It is considered that the powers for which provision is made in the following clauses are likely to be of particular value in combating the civil disobedience movement:—

Clauses 3, 4, 10, 13, 23, 26, 28, 61, 66 and 67.

These clauses, for the most part, explain themselves, and it appears to be necessary only to draw attention to the following matters.

6. The powers for which provision is made in clauses 3 and 4 are drastic, and, unlike the similar powers conferred by the Bengal Criminal Law Amendment Act and the Bengal Criminal Law Amendment Ordinance, 1931, orders of detention are not subject to the scrutiny of two Judges. It is, therefore, the more necessary that they should be used with discrimination and under the supervision of the local Government—

- (a) It will be necessary for local Governments to pass general or special orders of authorisation under sub-clause (1) of clause 3. It is understood that the Bengal Government under the similar powers contained in the Bengal Criminal Law Amendment Act have by general orders authorised police officers not below the rank of Sub-Inspector.
- (b) It will be necessary for local Governments to insist on immediate reports being sent to them of arrests made under sub-clause (2), and also for them to pass a special order, if they desire that the person concerned should be kept in custody for more than 15 days. The nature of the custody can be defined either by a general or special order, and may be jail custody.
- (c) The maximum period of custody under clause 3 is two months, and the person must be released at the end of the period unless, in the meantime, an order is passed under clause 4.
- (d) An order under clause 4 may relate to a person who has been arrested under clause 3 or to any other person, provided that the conditions of the clause are satisfied. Unless the order of the local Government specifies the time for which the order shall remain in force, it will be in force for one month only. It cannot, in any case, extend beyond the life of the Ordinance. The order may include all, or any, of the directions given in the clause. The powers do not include commitment to jail custody, but under (d) an order can be given for detention in an internment camp. Under (c) an order can be given of externment from the province, but since a local Government would not have the power to specify the place of residence

outside the province, it is undesirable that local Governments should pass orders of externment outside their own provinces, under the powers given by this Ordinance. If internment outside the province is considered necessary, a reference should be made to the Government of India for the use of Regulation III or of corresponding Bombay or Madras Regulations.

- (e) Apart from detention in internment camps, restrictions can be placed on residence and conduct. For instance, the local Government may require the person concerned to reside in a particular place; to notify his residence or any change of residence to any authority they may specify; to report himself to the police in such manner and at such periods as they may specify; to abstain from any act in furtherance of the civil disobedience movement and from taking any part in any public meeting. In short, the restrictions may be of such a character as to render the person concerned incapable of assisting the movement without infringement of the order. If he infringes the order, he can be prosecuted under clause 21, which provides for punishment not exceeding three years.
- (f) Experience will show how these powers can best be used and much will depend on the strength and scope of the movement, if it is revived. If it is intense, it may be desirable, for some local Governments at any rate, to open internment camps. But, in this connection, it has to be remembered that unless means are found of overcoming this difficulty, in regard to which no assurance can be given at present, detention cannot exceed the life of the Ordinance. Local Governments should, therefore, make their plans on the assumption that detenus will have to be released when the Ordinance comes to an end, and for this reason it is desirable that, even if they consider the establishment of internment camps to be necessary, they should combine detention with judicious use of the other restrictive powers of clause 4, so as to avoid the simultaneous release of a considerable number of detenus.
- (g) Reference may be made to sub-paragraphs (i), (j) and (k) of the Home Department Express letter No. S.-1569 of the 12th of August 1931, in which suggestions were made regarding the extent to which powers might be used. These suggestions were not intended unduly to fetter the discretion of local Governments, and provided that the latter exercise close and continuous supervision over the use of the powers, the Government of India have no desire to impose unreasonable restrictions. In particular, they are content to leave to local Governments the decision as to who come within the categories of (a) provincial leaders, (b) leaders of more than purely local importance.

They further realise that if as seems probable, a no-revenue or no-rent campaign is a feature of the movement, it may be necessary to use these powers to deal with itinerant parties or individuals, whose activities while extremely mischievous would be carried on in such a way as to make difficult their prosecution for substantive offences. The employment of the powers for this purpose would however require special precautions against abuse and local Governments will doubtless take these.

7. Chapter IV of the Emergency Powers Ordinance provides for constitution of special criminal courts. When the Ordinance has been extended by the Governor General in Council to any province, it will be for the local Government concerned to decide whether Chapter IV shall be brought into force or not. It is suggested that Special Tribunals and Special Judges are likely to be of value in areas where serious disorder has occurred or

grave offences have been committed, and that they will perhaps not be found necessary in areas where these conditions do not obtain. The appointment of Special Magistrates and Summary Courts is likely to prove of value from the outset. The particular advantages associated with such appointments are—

- (a) Omission of commitment proceedings,
- (b) Abbreviated record of proceedings,
- (c) Limitation of the right of appeal,
- (d) Exclusion of the interference of other Courts, except as stated in clause 55.

8. The draft Unlawful Association Ordinance differs from the similar Ordinance No. IX of 1930 in that it contains—

- (a) power to seize the funds of unlawful associations, and
- (b) power under which the Government of India can declare an association unlawful through British India.

9. Subject to the approval of the Secretary of State, the draft Prevention of Molestation and Boycotting Ordinance will differ from the similar Ordinance No. V of 1930 in that it will contain—

- (a) an amplification of the definition of "molestation" so as to cover peaceful picketing, and
- (b) provision against the practice of celebrating mock funeral ceremonies as a means of intimidation or annoyance.

10. The draft Unlawful Instigation Ordinance differs from Ordinance XI of 1930 in two respects: (a) It contains a clause making an arrear of any notified liability recoverable as an arrear of land revenue. (b) It contains a clause amending section 4 of the Press Act of 1931, so as to bring within the scope of that Act all matter which instigates to the non-payment of any liability of the same kind as a liability which has been declared to be a notified liability anywhere in British India. This clause will be deleted if the Unlawful Instigation Ordinance is published along with or shortly after the Emergency Powers Ordinance which amends section 4 of the Press Act more widely.

11. Local Governments are requested to have their plans ready, so far as this is possible, to counter a revival of civil disobedience, should this occur.

No. 18.—SECRET EXPRESS LETTER FROM MR. H. W. EMERSON, SECRETARY TO THE GOVERNMENT OF INDIA, HOME DEPARTMENT, TO ALL LOCAL GOVERNMENTS AND ADMINISTRATIONS, No. F.-14/XII/31-POLL., DATED CAMP CALCUTTA, THE 19TH DECEMBER 1931.

Please refer to Home Department secret express letter No. F.-14/XII/31-Poll., dated 7th of December 1931, and paragraph 6 of last Dominions appreciation to be despatched to local Governments from Delhi on December 19th.

The All-India Congress Working Committee will, as at present arranged, meet at Bombay on December 29th. It is not possible to forecast the decisions they may reach, and at this stage the policy of Government can only be stated as contingent on certain conditions which may or may not be satisfied. If they are not satisfied, then the Government of India will review the position in the light of actual facts.

2. Apart from the attitude of Congress towards the programme of constitutional reforms, important matters which are likely to come under discussion are—

- (a) the general revival of civil disobedience,
- (b) the no-rent campaign in the United Provinces,
- (c) the boycott of British goods and institutions in Bengal or elsewhere.

3. Subject to the approval of the Secretary of State, who has been addressed, the Government of India propose to regard as a *casus belli* against the Central organization of Congress decisions which involve—

- (a) a general revival of civil disobedience either at once or after preparation, or
- (b) the support of the no-tax campaign in the United Provinces, or
- (c) the boycott of British goods or institutions.

4. The immediate action which the Government of India consider would be necessary, if any of the above decisions is reached, is as follows:—

- (a) Arrest of Gandhi within 7 days if he associated himself with the decision,
- (b) The declaration of the Working Committee as an unlawful association,
- (c) The promulgation of the Emergency Powers Ordinance and its extension to those provinces which considered extension to be necessary.
- (d) The promulgation of the Prevention of Molestation and Boycott Ordinance, if there were any decision in favour of boycott of British goods or institutions,
- (e) Such other measures included in the general programme which might be necessary.

5. Once it is decided to take action against the Central organization of Congress, the policy which the Government of India would themselves follow and would ask local Governments to follow would be to take all necessary measures to prevent Congress organizations from pursuing subversive activities or from making preparations with a view to pursue those. The Government of India attach the utmost importance to preventing the civil disobedience movement gaining momentum, and they believe that the best means of attaining this object is to take prompt and strong action at the outset. If, therefore, it becomes necessary to take the measures stated in paragraph 4 above, the Government of India trust that local Governments will not hesitate to ask for the powers they consider to be necessary and to make prompt and effective use of them.

6. It is practically certain that if Congress embark on civil disobedience, one of their principal weapons will be the boycott of British goods. As mentioned above, the Prevention of Molestation and Boycott Ordinance will be promulgated as soon as it is clear that it is one of their objects. This will allow local Governments to take action against particular methods by which effect is given to the boycott, and if the Ordinance is issued, the Government of India desire that there should be no delay in its extension by local Governments to all places where picketing is in force or is likely to be started. They attach great importance to leaving the commercial community and other interests concerned in no doubt that the maximum protection will be afforded to them in the prosecution of their lawful business. They consider that it will be of great value if local Governments directly and through their officers keep in touch with the commercial community and take all

possible means to reassure them. The action against picketing is one method only of dealing with the boycott and by itself is likely to achieve limited success. In regard to the boycott generally, as to other activities of Congress, the most effective measures will be those directed at the responsible associations, and the more they prevent the Congress from getting their organization fully at work the more successful they are likely to prove. If the Government of India reach the conclusion that it is necessary to take direct action against Congress, that decision will necessarily involve the adoption of all means under the law in order to bring the struggle to a successful issue with the least delay.

7. As stated in paragraph 5 of the last Dominions appreciation, the affairs in the North-West Frontier Province appear to be reaching a crisis. Information received since that appreciation was drafted suggests more definitely that it may not be possible for the Chief Commissioner to hold his hand until after the meeting of the Working Committee. Subject to the approval of the Secretary of State, who has been addressed, the Chief Commissioner has been given full discretion to ask for the programme of action to be put into operation at any time, and if the request is made, effect will be given to it with the minimum of delay. While it may be anticipated that the Chief Commissioner will, if possible, defer action until after the meeting of the Working Committee, it is not improbable that he will be unable to do so, and events in his province may expedite a general crisis.

8. The Government of India will keep local Governments informed, so far as possible, of developments during the next few weeks. They would request local Governments to inform them as early as possible of the Ordinances which they wish to be extended immediately to their province, if it becomes necessary to take the action contemplated in paragraph 4 above. Attention is again invited to the fact that at the present stage any plan of action must be contingent on developments, and these may prove to be very different from those which would render the action necessary.

No. 19.—SECRET EXPRESS LETTER TO ALL LOCAL GOVERNMENTS AND ADMINISTRATIONS, No. F. 33/32-POLITICAL, DATED THE 7TH JANUARY 1932.

The Government of India invite the attention of local Governments to the great importance of preventing, so far as possible, financial assistance being given to the civil disobedience movement. Its strength and duration will be largely a question of funds, and it is, therefore, necessary, *firstly*, that as much information as possible should be obtained regarding the sources from which funds are drawn and the custody in which they are kept; and *secondly*, that action should be taken where practicable to seize funds and to discourage financial support.

The Congress organisations are equally aware of the importance of this question, and it may be assumed that they will make every effort to conceal the sources from which assistance is derived, and so to arrange the custody and management of funds as to give little opportunity to Government to interfere with them.

Nonetheless, it should be practicable to obtain sufficient information to enable local Governments to render the giving of assistance more difficult, to take action against individuals and in some cases to seize funds. The Director of the Intelligence Bureau of the Government of India is addressing the C. I. D.'s of local Governments on the intelligence side of the question, and the Government of India recommend strongly for the consideration of local Governments that such measures as are possible be taken without delay to secure and co-ordinate information.

2. With regard to the powers under which action might be taken, the Government of India invite the attention of local Governments to the following provisions:—

- (a) A prosecution lies under section 17 (1) of the Criminal Law Amendment Act against any person who contributes or receives or solicits any contribution for the purpose of an unlawful association and also against any person who in any way assists the operations of any such association.

It is suggested that this provision should be used freely against persons who assist in any way the financial operations of an unlawful association, whether by appealing for contributions or by giving or receiving them or by administering the funds.

- (b) Section 7 of the Unlawful Association Ordinance of 1932, gives power to forfeit the funds of an unlawful association.

Special attention is invited to the provisions of sub-sections (3), (4), (5) and (7) of the section. In particular sub-section (3) empowers a local Government to prevent any suspected fund from being drawn upon pending an investigation into its nature under sub-section (4).

- (c) Section 4 of the Emergency Powers Ordinance gives extensive powers for the control of persons in regard to whom a local Government is satisfied that there are reasonable grounds for believing that they have acted, are acting, or are about to act in furtherance of a movement prejudicial to the public safety or peace.

The Government of India consider that persons who assist in any way the financial operations of the civil disobedience movement come within the mischief of this section. A suitable form of order under this section would appear to be—

- (1) a direction to the person named not to make any payment to any person or association of persons in furtherance of the civil disobedience movement;
- (2) a direction to the person named to submit weekly to an officer specified by the local Government a statement of all disbursements made by him or on his behalf and the reason for which each disbursement is made.

Even if an order of this kind were not successful in preventing contributions being made to Congress, the statement of accounts should prove useful to the executive authorities in tracing suspicious payments and in ascertaining the methods by which payments were being made to Congress. The order would certainly make it more difficult for Congress to keep themselves in funds.

3. It may be added that Government of India have information which suggests that promises have been made to Congress of very substantial financial assistance.

No. F. 33/32-Poll., dated the 9th January 1932.

Copy forwarded to F. and P. Department, A. D., C. G. S. and D. I. B., for information.

No. 20.—SECRET EXPRESS LETTER TO ALL LOCAL GOVERNMENTS AND ADMINISTRATIONS (INCLUDING AJMER-MERWARA), No. S. 110/32-POLL., DATED THE 14TH JANUARY 1932.

The Government of India have received several references regarding the use of section 17 (1) of the Criminal Law Amendment Act of 1908. Provided the legal conditions are satisfied, the Criminal Law Amendment Act is capable of use against a variety of activities within the programme of civil disobedience, for all of which specific provision does not exist under the ordinary law or the various Ordinances. When specific provision does exist it will usually be safer to resort to this than to the Criminal Law Amendment Act and the following observations are subject to this caution.

2. The Government of India are advised that the following is the legal position arising out of the notification of the Working Committee of the All-India Congress as an unlawful Association.

3. Section 17 (1) of the Criminal Law Amendment Act of 1908, renders a person liable to punishment who in any way assists the operations of an unlawful association.

4. In this connection reference may be made to Home Department letter No. D. 658/31-Poll., of the 4th February 1931 to all local Governments and Administrations, except the local Governments of Bombay and Bengal. A copy of the letter is enclosed. It follows from the statement of the law contained in that letter that since the Working Committee has been declared an unlawful association throughout British India, any person who in any way assists the operations of the Committee anywhere in British India is liable to prosecution under section 17 (1) of the Criminal Law Amendment Act, provided that the following conditions are satisfied:—

(a) That the person has so acted as to assist the operations of the Committee.

For this purpose it will be necessary to adduce evidence to show the nature of the programme of civil disobedience as initiated by the Working Committee. It is the intention of the Governor General in Council immediately to publish in the Gazette the correspondence which has taken place between His Excellency the Viceroy and Mr. Gandhi since Mr. Gandhi's return to India. In particular the telegrams of Mr. Gandhi, dated the 1st of January and the 3rd of January 1932, are relevant. The first telegram contained as an enclosure the resolution of the Working Committee which described the programme of civil disobedience (including non-payment of taxes) under illustrative heads. The telegram of Mr. Gandhi, dated 3rd of January 1932, made it clear that civil disobedience had been resumed. The programme of the Working Committee is, within the meaning of section 37 of the Indian Evidence Act, a fact of a public nature and the Gazette record of the correspondence will be admissible in evidence to show the nature of the programme of the Working Committee. The Gazette copy, it should be remembered, though it will be evidence, will not be conclusive evidence and it should be supplemented by oral evidence of persons who are in a position to speak as to the nature of the practical programme.

(b) That sufficient evidence be provided from which an inference may be made that it was the intention of the person to assist the operations of the Working Committee. The decision of the High Court of Bombay in the case of the Crown *versus* Gangoo-bai, Ramdas Khemji, etc., definitely suggests that in the circumstances of a wide-spread movement like the civil disobedience movement the Courts are justified in making inferences of intention in regard to activities which are part of the declared programme of civil disobedience.

(c) That the Working Committee is in active existence and is carrying on operations. In this connection section 18 of the Criminal Law Amendment Act, 1908, is relevant. The Government of

India have no official information that the Committee have formally dissolved, and they are making enquiries on this point. They are advised that, so long as more than one member of the Working Committee, which met at Bombay, are at liberty and the system is continued of the President for the time being nominating his successor, there is an actual combination between members of the Committee even if there has been a formal act of dissolution. Legal difficulties, however, may arise, if the "Committee", which met at Bombay, is reduced to one man or disappears and no reconstitution of the Committee is made.

5. The above statement of the law applies *mutatis mutandis* to all associations that have been declared unlawful, and, provided that the legal conditions stated above are satisfied, section 17 (1) of the Criminal Law Amendment Act provides a comprehensive means of dealing with persons who assist the civil disobedience movement. If, however, Congress organisations adopt the device of formal dissolution and of the appointment of a single individual to carry on the functions, there may be difficulty in furnishing legal proof to satisfy the conditions of section 18 of the Act. The Government of India have addressed local Governments on this aspect of the case which will be further examined when all replies have been received.

6. The Government of India will furnish local Governments with copies of the Gazettes containing:—

- (a) the notification declaring the Working Committee to be unlawful, and
- (b) the correspondence between His Excellency the Viceroy and Mr. Gandhi.

It may be observed that even when prosecutions relate to an unlawful association other than the Working Committee, the production of (b) may be of value as evidence of the nature of the operations of the association. Local Governments are requested to communicate the number of each Gazette required by them.

No. S. 110/32-Poll.

A copy is forwarded to the Foreign and Political and the Army Departments; the Chief of the General Staff; and the Director, Intelligence Bureau, for information.

No. 21.—SECRET EXPRESS LETTER TO ALL LOCAL GOVERNMENTS AND ADMINISTRATIONS, INCLUDING AJMER-MERWARA, No. S-173/POLL., DATED THE 20TH JANUARY 1932.

Express Letter.

In a recent telegram the Secretary of State asked for an indication of the general lines of policy which it was proposed to adopt in applying the Ordinances. In particular, he drew attention to the desirability of avoiding, as far as possible, the overcrowding of jails. Copies of the relevant portion of his telegram and of the reply of the Government of India are attached.

2. It will be seen that, in regard to the question of dealing with the rank and file who take part in the civil disobedience movement the Government of India have taken the view that no hard and fast rules can be laid down that conditions vary from province to province, and that even local measures are largely a matter of experiment.

3. Subject to the above statement of the case, the following suggestions are made for the consideration of local Governments:—

- (a) During the last civil disobedience movement it was found, in some provinces that the infliction of fines, in lieu of imprisonment, or in addition to a short term of imprisonment, acted as an effective deterrent. It is, however, necessary that the realization of fines should be prosecuted vigorously and promptly.
- (b) The release of accused before trial or of convicted persons on undertakings not to take further part in the movement is desirable, both because it weakens the movement and because it relieves the pressure on the jails.
- (c) Section 4 of the Emergency Powers Ordinance gives powers which can be used in extension of those contained in Section 401, Criminal Procedure Code. Under the latter section, a convicted person can be released on conditions before the expiry of his sentence, only if such conditions are accepted by him. Under Section 4 of the Emergency Powers Ordinance conditions can be imposed without the consent of the person concerned, and provided he has been convicted for an act committed in furtherance of the civil disobedience movement, he can be released before the expiry of his sentence on such conditions, within the terms of the section, as may be imposed by the local Government (or the District Magistrate, if powers have been delegated to him). It is suggested that this section may be of value in the case of persons who, while they would not voluntarily agree to release on conditions, are not likely again to court imprisonment, or to violate the conditions imposed upon them. The Government of India, however, recognise that the powers would have to be used cautiously in the first place, and that its continued use would be subject to the success attained. They also recognise that premature use of the powers of conditional release might give an impetus to the movement by creating the impression that persons sentenced to imprisonment would not serve their full term.
- (d) Section 26 of the same Ordinance gives the power of imposing collective fines on the inhabitants of any area which are concerned in the commission of offences or other acts which are prejudicial to the maintenance of law and order or to the public revenues.

Occasions may arise when these powers can be used in place of the prosecution of individuals. In the North-West Frontier Province, for instance, they have been used in the case of villages that have supplied a number of persons for the purpose of picketing in Peshawar City.

- (e) Attention is invited to paragraph 4 of Home Department letter No. 344, dated the 26th March 1930, to all local Governments and to the enclosure thereto. These should, however, be read in the light of the experience gained during the last civil disobedience movement of the above suggestions. The important point is the desirability of avoiding, after the expiry of the first two or three months of the struggle, and so far as this is within the power of the local Government, a continuous increase in the jail population. This involves the infliction of short sentences on a large number of those of the rank and file whom it is considered necessary to prosecute, so that, assuming the strength of the movement remains much the same, the figures of releases from, and admittance to, jail are about equal at the end of the first three months.

- (f) The Secretary of State has communicated to the Government of India for following suggestions made by Sir John Anderson in the light of his experience of jail administration in Ireland:—
- (i) Prisoners, who give trouble if confined in a local jail, often give far less trouble, if they are removed to a jail in a locality which is new to them.
 - (ii) It is useful to classify prisoners in accordance with the probable risks of releasing them before the expiry of their sentences. Such classification would be of value in connection with (c) above.
 - (iii) In dealing with hunger strikes the provision was found very effective of water with white of egg and addition of lemon (not enough to coagulate the mixture).

Enclosure No. 1.

Extract from telegram No. 99, dated 8th (received 9th) January 1932, from Secretary of State, London, to Viceroy (Home Department), New Delhi.

Having regard to coming re-assembly of Parliament and strong interest certain to be displayed in situation in India I shall be glad to receive from you as soon as possible an indication of general lines of policy which you in consultation with local Governments propose to adopt in applying Ordinances. What course, for instance, is being followed as regards arrests? It may be too early yet to say whether it will be practicable to arrest and prosecute prominent leaders only and to avoid as far as possible wholesale incarceration of rank and file with consequent overcrowding of gaol accommodation? Did experience on previous occasion show that short sentences of a month or so had useful effect on the whole or not?

* * * *

Enclosure No. 2.

COPY OF TELEGRAM XX, No. 210, DATED 16TH JANUARY 1932, FROM VICEROY (HOME DEPARTMENT), NEW DELHI, TO SECRETARY OF STATE FOR INDIA, LONDON.

Reference first para. of your telegram No. 99 of 8th January. General lines of policy are stated in following letters to local Governments:—

- (1) No. S.-1569 of 12th August 1931.
- (2) No. F.-14/XII/31-Poll., of 7th and 19th December 1931.

Last two letters were sent to you by Air Mail of 11th January.

2. Policy may be briefly stated as follows:—

- (a) to prevent movement obtaining momentum by initial action against leaders, organisations, property and funds;
- (b) to stop unlawful activities as they occur by action against individuals under ordinary law and Ordinances.

Success attained by (a) will determine to considerable extent action necessary under (b) in so far as it will limit number of individuals engaging in activities, but, broadly speaking, in action against individuals especially during early stages would nullify effect of (a) by allowing movement to obtain momentum. Subject to this fundamental consideration, general principles which it is desirable to observe are, firstly, that no person should be sent to jail whom it is unnecessary to send; secondly, no prisoner should be kept in jail longer than it is necessary to keep him.

In practical application of these principles, difficulties arise because sentences are dependent on Courts, effect of particular measures can be determined only by experiment; local conditions vary and hard and fast rules are quite unsuitable.

In 1930 short sentences were generally not a success. It is not possible to say what effect they might now have until it is clear what enthusiasm is behind present movement.

3. Local Governments are alive to inconveniences of overcrowding of jails and will do what is possible to avoid it. We are sending them copy of relevant portion of our telegram and of this telegram and are making one or two suggestions. We will send by Air Mail our correspondence with them.

No. 22.—SECRET EXPRESS LETTER TO ALL LOCAL GOVERNMENTS AND ADMINISTRATIONS, No. F. 13/4/32-POLL., DATED THE 20TH APRIL 1932.

Government of India have under consideration the question of the policy to be followed in regard to the retention of powers conferred by Ordinances, II, III, IV and V of 1932, which will expire on the 3rd of July next.

In regard to the procedure for obtaining the powers required, they are advised that if, is the opinion of the Governor-General, there is an emergency at the end of June which can be distinguished from the emergency existing on the 4th of January last, then it would be within the legal powers of the Governor-General to issue a fresh ordinance or ordinances, either previous to, or simultaneous with, the expiry of the present Ordinances, which:

- (a) would confer with, or without, additional powers, such of the existing powers as are held to be necessary, and
- (b) would validate, where this is held to be necessary, the continued operation of action and orders which would otherwise lapse, taken or made under the existing Ordinances.

The Government of India have been further advised that if an emergency is found to exist at the end of June, it cannot be the same emergency as existed on the 4th of January.

2. The Government of India have not reached any conclusion in regard to the course they will pursue, nor will they be in a position to reach a final decision until they are able to appraise with much greater accuracy than at present the situation that is likely to exist towards the end of June.

But in view of the legal position as above stated, and on the assumption that the situation will then be such as to preclude the general abandonment of the powers conferred by the existing Ordinances, it may be that, subject to the approval of the Secretary of State, they will advise the Governor-General to promulgate an Ordinance a few days previous to the 3rd of July, which will—

- (i) confer such powers as are held to be necessary to meet the then emergency, and
- (ii) validate, so far as is necessary, the continued operation of action and orders taken or made under the existing Ordinances.

It is on the above assumptions that the following proposals of a provisional character are made, and the views of local Governments are invited.

3. The Government of India recognise that, as they are themselves unable to reach final conclusions so far in advance, so also local Governments will be unable to express more than provisional views on some of the matters

now referred to them. The Government of India will, therefore, further consult local Governments towards the end of May or the beginning of June, in order to ascertain their final views. In the meantime, it is necessary to state the policy which it may be desirable to pursue and to make a provisional examination of the powers that may be required.

4. The Government of India are at present inclined to the view that the promulgation of a single consolidated Ordinance will be preferable to the promulgation of separate Ordinances. The single Ordinance would include only those powers that are considered to be necessary in any part of British India at the time of its promulgation, but this would not preclude the issue of further Ordinances, should this later become necessary, providing additional powers to meet developments amounting to a fresh emergency. The consolidated Ordinance would be arranged in Chapters, and the extent section would be drafted so as;

- (i) to bring certain provisions into operation at once throughout British India,
- (ii) to extend any or all of the remaining provisions to particular provinces by order of the Governor-General in Council,
- (iii) to bring into operation, by order of the local Government in the whole or part of a province, the provisions that had been extended under (ii) above.

In practice, it would probably be convenient for the Governor-General in Council to extend to various provinces particular Chapters rather than provisions.

5. As regards the policy to be pursued in respect of:—

- (a) the scope of the powers taken, and
- (b) the extension of powers to particular provinces,

the Government of India attach great importance to the following principles:—

They consider that those powers should be retained which are required to defeat the civil disobedience movement, having regard to the situation as it will exist at the time of the promulgation of the Ordinance. They further consider that it will be necessary to take powers to validate the continued operation of action and orders where their lapse would definitely prejudice Government in fighting the movement, as, for instance, for the continued occupation of places of which possession has been taken under the Unlawful Association Ordinance and the retention of security imposed, under section 63 of the Emergency Powers Ordinance on presses and newspapers.

Subject to the above, there are cogent reasons why first, no power should be taken in excess of requirements; second, the power taken should be extended to provinces only in accordance with necessity; and third, the same principles should govern the extension of powers within a province. In other words, both the scope and application of the powers should be strictly limited to requirements. It has to be recognised that the promulgation of a comprehensive Ordinance in continuation of the existing Ordinances will give rise to severe criticism both in and outside India. Charges will be freely made that it is the policy of Government to rule by Ordinances and to ignore both public opinion and constitutional propriety. At this stage of the struggle, it is of real importance that as little ground as circumstances will permit should be given for these charges. The indiscriminate assumption and application of powers would moreover be contrary to the spirit, if not the letter, of the legal opinion which Government have received, and it might conceivably prejudice the position of Government, if the validity of the Ordinance were challenged in the Courts. Further, it is relevant to remember that the situation at the end of June is likely to be different in important respects from that existing on the 4th of January. When the

existing Ordinances were promulgated, Government were confronted with a general revival of civil disobedience, the programme of which was designed to initiate a widespread revolutionary movement and to paralyse the administration in all its branches. It was not possible to foresee the lines along which the movement would develop, and it was necessary for Government to arm themselves at all points. The programme remains, in theory unaltered and there has been no change in the purpose of the movement. Its potential mischief is still dependent on the opportunities allowed to its supporters. But, while these considerations forbid any relaxation of effort and preclude the abandonment of necessary powers, the situation is now in some respects clearer than it was in January last. A great deal has already been done to weaken the movement; its vigour varies from province to province; some items of the initial programme have definitely failed, and generally, it is possible to appraise with greater accuracy the forms that activities are likely to take and the powers required to meet them.

For these reasons the Government of India consider that, in the absence of unforeseen developments, it should be practicable to curtail both the scope and application of the powers; and they have no doubt whatever that, so far as this can be done, consistent with safety, the moral position of Government both in India and abroad will be strengthened. In particular, if it is possible to surrender the use of particular powers in whole provinces or districts, simultaneously with the promulgation of the Ordinance, clear proof would be given of the sincerity of Government declarations that they do not intend to rely on Ordinances longer than is actually necessary. The Government of India, therefore, ask for the assistance and co-operation of local Governments in these respects.

6. It would appear to follow from the above principles that:—

- (a) no additional power should be taken which is not definitely necessary. The Government of India will, therefore, not be prepared to reconsider proposals of local Governments which they have been previously unable to accept, or to consider fresh proposals for new powers, unless a convincing case is established;
- (b) when existing powers are retained, their scope should be amended, if experience has shown that the relevant provision is too widely drafted.

The Government of India have several cases of this kind in mind and they would invite suggestions from local Governments. There is, however, likely to be little scope for amendment in this direction;

- (c) existing powers should be abandoned where they are unnecessary. This is discussed in the next paragraph;
- (d) the initial extension of powers to a particular province or within the province to a particular district should be determined by the requirements of the province or district at the time of promulgation of the Ordinance. While the Government of India will be prepared at once to extend those powers that are necessary and, if occasion arises, to extend other powers without delay, they deprecate the extension of powers in anticipation of developments that on a fair view of the situation do not seem likely to occur.

7. It is not at present possible to make an accurate appreciation of the existing powers that it will be necessary to retain. But, judging from the situation as it now exists and the course of events during the past three months, the Government of India are doubtful whether it will be possible to abandon in their entirety the powers contained in any of the four Ordinances now in force, except possibly those contained in the Unlawful Institution Ordinance. They anticipate that it will be necessary to retain

practically unchanged the provisions of the Prevention of Molestation and Boycotting Ordinance, as amended, and of the Unlawful Association Ordinance, and to retain many of the powers contained in the Emergency Powers Ordinance. On the other hand, the figures of convictions furnished to the Government of India indicate that it has been necessary to make comparatively little use of the Unlawful Instigation Ordinance, except in the United Provinces. In other provinces the attempts to carry on no-rent or no-revenue campaigns appear to have been of a minor character, and if there were no deterioration in the position in this respect, the local Governments concerned might be able to deal with these activities by the use of section 17 of the Criminal Law Amendment Act of 1908 and other powers. If, therefore, the situation in the United Provinces were such as to permit the abrogation of these powers without incurring the risk of the recrudescence of the no-rent campaign, the Government of India are inclined to think that it might be possible to exclude the relevant powers from the consolidated Ordinance, it being understood that they would be prepared to advise the promulgation of an *ad hoc* Ordinance, should the necessity subsequently arise. Were it practicable to take this course, clear evidence would be given of the desire of Government to restrict the scope of powers; but, although the Government of India attach importance to this aspect of the case, they recognise that this advantage might easily be outweighed, if encouragement were given to no-revenue and no-rent campaigns by the abandonment of these particular powers. They would be grateful for the views of local Governments on this matter and, in particular, of the Government of the United Provinces in regard to the necessity, so far as it can now be estimated, of retaining the powers.

As regards the Emergency Powers Ordinance, it appears probable that it would be necessary to retain many of the powers. At the same time, it may be possible to dispense with those of which little or no use has been made. The Government of India have not specific information as to the extent to which use has been made of particular provisions, but they are inclined to think that it will not be necessary to retain sections 8, 9, 13, 14 and 16 of the Ordinance and that it may be possible also to dispense with sections 6, 7 and 12.

8. So far as an estimate can at present be made, it would appear probable that it will be necessary to bring into immediate operation throughout British India—

(a) the provisions of the Ordinance which will repeat the following sections of the existing Ordinances:—

Sections 61 and 63 of the Emergency Powers Ordinance,
Section 10 of the Unlawful Association Ordinance,

and (b) a new provision which will continue the operation of action taken and orders made under the existing Ordinances.

9. It is requested that the Government of India may be favoured, not later than the 10th of May, with the views of local Governments on the general questions of policy above discussed and on the particular matters mentioned in paragraphs 7 and 8. It will be of value if an indication can be given of the extent to which, on a present appreciation of the situation, it may be possible to withdraw powers from areas in which they are now in force. Subsequent to the 10th of May the Government of India will endeavour to furnish local Governments with a provisional draft of the Ordinance and, as already stated, will afford them the opportunity of a final expression of their opinions about the end of May or beginning of June. In the meantime, it is to be clearly understood that the suggestions contained in this letter do not represent the considered conclusions of the Government of India and are of a provisional character.

No. 23.—LETTER TO THE GOVERNMENT OF MADRAS, No. D. 8228/32-POLL., DATED THE 17TH DECEMBER 1932.

I am directed to refer to your letter No. 24190-5, dated the 13th October 1932, and to say that the difficulty which has been experienced in adducing adequate evidence to secure a conviction under section 17 (1) of the Criminal Law Amendment Act, 1908 serves to emphasise the point made in paragraph 1 of the Home Department letter No. S. 110/32-Poll., dated the 14th January 1932, that it is safer to resort, wherever possible, to the specific provisions of the ordinary law or the Ordinance than to rely on the provisions of the Criminal Law Amendment Act. At the same time the Government of India recognise that there are cases which do not come within the purview of the ordinary law, the Special Powers' Ordinance or the Act recently passed by the Central Legislature and which can only be dealt with under the Act of 1908, and they agree with the observations made by the Government of Madras as to the ingredients requiring proof in a prosecution under the Act which are in conformity with the views communicated in the Home Department letter No. D. 658/31-Poll., dated the 4th February 1931.

2. As regards the first of the two points upon which the local Government particularly comment, namely, the difficulty of proving the continued existence of an unlawful association after it has been declared such under the Act, I am to observe that the legal position is that liability to conviction for an offence under section 17 (1) of the Criminal Law Amendment Act is not established unless it is proved that the relevant association was in existence at the relevant date and the burden of proving this lies on the prosecution under the operation of section 101 of the Evidence Act. The relevant date being subsequent to the date of declaration of the association as unlawful, that burden is not discharged by proving the existence of the association before that date. It is not, however, so much a question of rebutting a legal presumption that the association ceased to exist after it was declared unlawful as of discharging the burden which at all times lies on the prosecution of proving affirmatively that the association was in existence at the time the offence complained of was committed. The method whereby this burden can be discharged must depend on the materials available and the facts in any particular case. So far as the All-India Congress Working Committee is concerned, the following facts will probably be sufficient to prove its continued existence:—

- (a) In a resolution passed by the Committee at its meeting at Bombay on the 29th December 1931 to the 1st January 1932 which was published in a bulletin issued on the 3rd January 1932, the Working Committee delegated all its powers to the President who has power also to nominate his successor. An extract, paragraph 6 of the Resolution is enclosed.
- (b) The appointment of succession of Presidents or Dictators. This can be proved from statements which have been published in the press. A list of the Presidents since January last is enclosed.
- (c) Copies of bulletins which are issued from time to time by the Working Committee can also be produced as evidence that the Committee adhere to their original programme or at any rate have never repudiated it.

At the same time the Government of India agree with the local Government that it would probably be easier to link up the activities of the accused with a local association affiliated to the All-India Congress Working Committee and to prove the continued existence of that association after it has been declared unlawful.

3. As regards point (4) in paragraph 2 of your letter, I am to say that the Government of India have all along appreciated the difficulty of linking the activities of an accused with the association that has been declared unlawful. As stated in the Home Department letter of the 4th February referred to above, it is not always possible for the prosecution to prove positively the intention of the accused and it is necessary therefore that sufficient evidence should be produced to enable an inference in regard to intention to be drawn by the Court. In this connection I am to enclose for information a copy of an Express letter to the Government of Bengal No. D. 222/31-Poll., dated the 24th January 1931, (F. 13/3/31-Poll.), para. 2 of which relates to the question of proving the intention of an accused person who is charged with assisting the operations of an unlawful association.

EXTRACT FROM THE CONGRESS BULLETIN, DATED THE 3RD JANUARY 1932, OF RESOLUTIONS PASSED BY THE A. I. C. C. ON THE 29TH DECEMBER 1931 TO THE 1ST JANUARY 1932.

* * * *

6. In view of the situation that has arisen the Working Committee authorises its President to exercise all the powers of the Committee and to nominate a successor or successors who will hold office in succession and exercise all the powers of the President. The last nominee of the President will also have the power of nominating his successor or successors in the same way as the President of the Working Committee. These extraordinary powers will abate when normal conditions are restored.

STATEMENT SHOWING THE NAMES OF THE ACTING CONGRESS PRESIDENTS, AFTER THE ARREST OF SARDAR V. J. PATEL IN JANUARY 1932.

1. Rajendra Prasad.
2. Dr. Ansari.
3. S. Sardul Singh.
4. M. Abul Kalam Azad.
5. Mrs. Sarojini Naidu.
6. Gangadhar Rao Deshpande.
7. Dr. Kitchlew.
8. C. Rajagopalachari.
9. Babu Rajendra Prasad.

No. 24.—CONFIDENTIAL EXPRESS LETTER TO ALL LOCAL GOVERNMENTS (EXCEPT BURMA), No. D. 831/33-POLL., DATED THE 8TH FEBRUARY 1933.

1. Newspaper reports and, in particular, a statement by Malaviya, which appeared in the Press on February 1st, show that Congress intend to try to hold their annual session sometime in March. The place of meeting has not yet been selected, nor has any date been fixed. Malaviya also gave no indication as to the agenda which he said would be decided by the Subjects Committee.

2. The Government of India have considered the policy to be adopted in this matter and would be glad to receive not later than February 15, (if necessary by telegram) the comments of the Local Government on the suggestions made below and their appreciation of the position.

3. The general position appears to the Government of India not materially changed from that in April 1932, when an attempt was made to hold the session in Delhi. Though the movement is weaker, civil disobedience is

still the declared policy of the Congress, and it would be inconsistent with our general policy to allow any action which would give impetus to the movement.

4. Whatever may ultimately be the agenda of the session its main object is doubtless to stimulate support for Congress and to advertise the strength of its organisation. The Session would be preceded for a period of a month or six weeks by an intensive and widespread campaign of advertisement which if unchecked would tend to dishearten the supporters of Government, and convey the impression that a change of Government's policy was contemplated.

5. If the session were allowed, it would strengthen the demand for the release of Gandhi and other leaders to enable them to participate therein.

6. The date suggested for the session will probably have reference to the date of the opening of the Joint Select Committee and will be designed to influence British Indian delegates. Any revival of civil disobedience at this crucial stage of the constitutional discussions may seriously hamper further progress.

7. On the other hand, it will be argued that if Government disallow the session, they will be depriving Congress of an opportunity of meeting together to change their policy and call off the movement. This argument was also put forward in March 1932. There are it is true some signs of the more moderate elements in Congress gradually drifting away and this drift will increase if Government maintain their present policy. But there is as yet no marked indication of any definite repudiation of the movement by the leaders. The left wing will probably dominate the session and, though a split in the Congress ranks is a possibility, it appears more likely that waverers would be won back.

8. Such being their appreciation of the position, it appears to the Government of India that the line which should be taken should be that if the Congress leaders definitely advocate a policy of calling off civil disobedience and give an assurance that they want to hold the meeting in order to secure an endorsement by Congress of that policy, the session might be allowed. It cannot be permitted while Congress still stands pledged to civil disobedience and there is no definite assurance that the object of the session is to call it off.

9. If it is decided that the session should not be allowed, it is desirable that the policy of Government should be announced as soon as Congress plans materialise by the selection of place of meeting and commencement of propositions, so as to prevent the campaign of advertisement to which I have already alluded.

10. Finally I am to deal with the practical steps which would have to be taken to stop the session. In April 1932, the Reception Committee at Delhi was declared an unlawful association under the Criminal Law Amendment Act, and its office was seized under section 3(1) of Ordinance IV of 1932. At the same time, Local Governments were requested in telegram No. 1022 of 19th August 1932, to take such measures as were practicable within the ordinary law and Ordinances to deal with parties proceeding to Delhi to attend the session. It was suggested that one possible method was to use section 3 of the Emergency Powers Ordinance and to detain persons concerned for a few days only. In the case of the United Provinces and the Punjab as provinces adjacent to Delhi the use of sections 7 and 10 of the Emergency Powers Ordinance was also suggested. These powers except those under the Criminal Law Amendment, Act, as amended by Act XXIII of 1932 are no longer in force in all provinces, and the Government of India would like to know whether the Local Government anticipate any practical difficulties over stopping the session (a) by action in the place selected for the meeting (b) in other places in stopping persons from going to it.

No. 25.—LETTER TO ALL LOCAL GOVERNMENTS, EXCEPT BENGAL, No. D. 1457/33-POLL., DATED THE 25TH FEBRUARY 1933.

The Government of India have considered the replies received from local Governments in reply to Home Department Express letter No. D. 831-33-Poll., dated the 8th February 1933. Local Governments are in full agreement with the Government of India's appreciation of the position and with the line of policy suggested, which has also received the approval of the Secretary of State.

It has now been announced that the Congress Session will be held in Calcutta on March 31st, and Government of India are announcing that as civil disobedience is still the avowed policy of Congress, the proposed annual session cannot be allowed. The Government of Bengal will then if it becomes necessary notify under the Criminal Law Amendment Act, the local Reception Committee and other Committees which may be formed for making arrangements for the meetings and have been asked to communicate their notification to other local Governments who are requested to take all action open to them to prevent delegates attending the Congress. In this connection I am to enclose a copy of a note showing the action taken to prevent the holding of the annual session at Delhi in April 1932. Some of the measures then taken are no longer possible owing to the lapse of the Special Powers Ordinance, but in those provinces which still have powers corresponding to sections 3 or 4 of the Special Powers Ordinance, *i.e.*, Sections 3 and 4 of the Bombay Special (Emergency) Powers Act, 1932, Sections 3 and 4 of the Bengal Public Security Act 1932, Sections 2 and 3 of the Punjab Criminal Law (Amendment) Act, 1932, Sections 4 and 5 of the North-West Frontier Province. Public Tranquillity (Additional Powers) Act, 1932, and Section 2 of the Bihar and Orissa. Public Safety Act, 1933, action may suitably be taken under these powers to prevent persons going to Calcutta.

*(It is recognised that section 2 of the Punjab Criminal Law (Amendment) Act cannot be used for this purpose in view of the statement made when the Bill was under discussion.)

I am to invite attention also to paragraph (g) of the note enclosed, and to say that the Government of India adhere to the view that the action to be taken should be preventive and that provided the object is achieved of preventing persons attending the session, prosecutions and convictions should be restricted to special cases.

No. 26.—LETTER TO THE GOVERNMENT OF BENGAL, No. D. 1457/33-POLL., DATED THE 25TH FEBRUARY 1933.

Reference your letter No. 918-P. S., of the 18th February 1933. I enclose a copy of the letter addressed to local Governments with its enclosures. The Government of India approve of the Government of Bengal taking the action proposed against the Reception Committee and other Committees formed for making arrangements for Session whenever it may become necessary. Copies of the notifications issued may be supplied to the Government of India and to all local Governments.

I am to invite attention in particular to paragraph (g) of the note regarding action taken to prevent the holding of the annual session at Delhi and to say that the Government of India trust that the Government of Bombay will be able to proceed on the lines then adopted and to release as many of the persons whom it may be necessary to arrest as soon as possible after the situation has settled down. If prosecutions have to be instituted it will probably be sufficient if short sentences are imposed.

*() To Punjab on'y.

No. 27.—LETTER TO ALL LOCAL GOVERNMENTS, AND ADMINISTRATIONS INCLUDING AJMER-MERWARA, No. D. 1383/33-POLL., DATED THE 25TH FEBRUARY 1933.

The Government of India have considered in consultation with the Secretary of State the position arising from the steady and continued decline of the civil disobedience movement. The conditions do not justify any modification of their policy in dealing with the movement and in particular they consider that it would be premature to consider at present the release of Mr. Gandhi. This stage, in their opinion, is not likely to arise until it has become clearer than it is at present that there is no possibility of reviving civil disobedience, and until the total number of civil disobedience prisoners in the jails has been reduced to much smaller proportions. They think it essential that nothing should be done that would lead up to a spectacular jail delivery, for this not only might cause a revival of the movement, but would in any case increase the prestige of Congress and enable them to build up their position again by the methods used with such success after the pact of March 1931. If, on the other hand, there is no change of policy and Government keep up steady pressure upon those Congress elements which still attempt to maintain the fight there is reason to hope that the more moderate elements will gradually break away. There the already marked signs of such a defection and of divided counsels in the Congress supporters.

Such being appreciation of the position, the Government of India consider that the policy to be followed should be to give every chance to the more moderate Congress elements to drop active participation in civil disobedience, which in fact many of them are doing already, but at the same time to do nothing that would involve a general amnesty, the early release of extremist leaders and a general revival of Congress power. It cannot be expected that Congress at a body will repudiate the movement, but by degrees, if the present policy is continued consistently, it is reasonable to expect that the support for the movement will still further decrease and normal conditions will gradually be restored.

The Government of India in agreement with the Secretary of State consider that it will facilitate the development of this policy, if the release of unimportant civil disobedience prisoners is speeded up. There is no occasion for any public announcement to this effect, and it must be clearly understood that there is no change of policy and that no general jail delivery is contemplated, but provided there is no misunderstanding on these points, the Government of India consider it would be an advantage if steps could be taken by local Governments to expedite by remission of sentences the release of those who are not likely to resume civil disobedience activities and thereby reduce gradually the total number of prisoners which, as shown by the statement annexed compiled from the replies to my letter No. D. 879/33-Poll., dated the 6th February 1933, will, unless special measures are taken, remain at a high figure in some provinces for some time to come. The selection of prisoners to be released and the rate at which such releases can be carried out are matters to be decided in the light of local conditions, and the Government of India do not propose to issue any general instructions, but leave this question entirely to the discretion of local Governments. If these releases cause any revival of the movement or any attempts to revive it, they should be at once discontinued.

The Government of India would be glad to be informed in due course of the action taken, and the number of persons released as a result of these suggestions should be reported in your fortnightly reports.

(The Secretary of State has drawn attention to the high figures reported for Bihar and Orissa, and comments that though there may be an explanation for them, it looks *prima facie* as if some reduction could be effected.

() To B. & O. only.

The Government of India recognise that the figures given are only a rough estimate, but they would be glad if the Government of Bihar and Orissa would carefully consider the suggestion now made).

[(The Secretary of State recognises that conditions in the North-West Frontier Province are exceptional and that the policy of speeding up releases may possibly be undesirable in that area.)]

M. G. HALLETT,
Secretary to the Government of India.

Statement showing the anticipated number of civil disobedience prisoners who will be in jail on April 1st; June 1st; and August 1st; excluding new convictions.

Province.	April, 1st	June, 1st.	August, 1st.	January 1933.
Madras	850	600	450	1,051
Bombay	2,201	1,406	887	3,522
Bengal	1,616	1,037	481	1,704
U. P.	1,100	650	150	2,848
B. and O.	1,750	1,500	1,250	2,035
Punjab	237	177	134	300
C. P.	148	86	25	214
Assam	144	97	80	199
N. W. F. P.	1,417	1,329	1,268	1,660
Coorg	83	66	45	99
Delhi	110	65	43	120
Ajmer-Merwara	20	10	Nil	36
Total	9,676	7,023	4,813	13,758

No. 28.—LETTER TO ALL LOCAL GOVERNMENTS (EXCEPT BENGAL) AND ADMINISTRATIONS, No. D. 1597/33-POLL., DATED THE 17TH MARCH 1933.

In continuation of my Express letter No. 1457/33-Poll., dated the 25th February 1933, I enclose copies of two circulars Nos. 12 and 13, dated the 6th March 1933, from the All-India Congress Committee to Provincial Congress Committees, which have recently been intercepted. It will be seen from these that the organisers of the Session contemplate open demonstrations over a wide area by the delegates who are proceeding to

[()] To N. W. F. P. only.

Calcutta. It is also to be noted that the resolutions suggested for approval by the Provincial Committee include those which were passed at the Session held in Delhi in April 1932, one of which reiterates the Independence Resolution, while another endorses the decision arrived at by the Working Committee in Bombay in January 1932, supporting the revival of civil disobedience.

2. If Congress supporters adopt the action suggested in the circular No. 12, of carrying on propaganda in the villages by means of the distribution of handbills, or delivery of lectures and by holding meetings at which resolutions will be moved declaring their confidence in the original Working Committee their activities will be similar to the demonstrations on Independence Day or similar days and can be dealt with by the measures already successfully used to deal with such demonstrations. If any such demonstrations take place they should be dealt with promptly so as to prevent the delegates reaching Calcutta and thus to facilitate action taken by the Government of Bengal. For the action to be effective it may be necessary not merely to arrest the demonstrators but also to prosecute them and sentence them to short terms of imprisonment, and to this extent the suggestions made in the last paragraph of my letter cited in paragraph 1 above may be regarded as modified.

3. The circulars issue in the name of the All-India Congress Committee and over the signature of Mr. Agarwalla, the Secretary. It may be noted that under the constitution of the Indian National Congress the general secretaries of the Congress and of the All-India Congress Committee are ex-officio members of the Working Committee which has been declared unlawful. It would therefore be possible to prosecute Mr. Agarwalla under the Criminal Law Amendment, Act, and the Government of India suggest that this action be taken wherever he is found.

ENDORSEMENT TO THE GOVERNMENT OF BENGAL, No. D. 1597/33-POLL., DATED
THE 17TH MARCH 1933.

Copy forwarded to the Government of Bengal.

No. D. 1597/33-Poll.

A copy is forwarded to:—

The Hon'ble Brigadier General Sir Terence Keyes, K.C.I.E., C.S.I.,
C.M.G., Resident at Hyderabad, Hyderabad (Deccan).

The Hon'ble Lieut.-Col. Sir Richard Burke, Kt., Resident in Mysore,
Bangalore.

The Hon'ble Mr. B. J. Glancy, C.S.I., C.I.E., Agent to the Governor
General in Central India, Indore.

The Hon'ble Lieut. Col. G. D. Ogilvie, C.S.I., C.I.E., Agent to the
Governor General in Rajputana and Chief Commissioner, Ajmer-
Merwara.

The Hon'ble Mr. A. N. L. Cater, C.I.E., C.B.E., Officiating Agent to
the Governor General and Chief Commissioner in Baluchistan,
Quetta.

The Hon'ble Mr. C. Latimer, C.S.I., C.I.E., Officiating Agent to the
Governor General in the States of Western India, Rajkot.

The Hon'ble Mr. J. A. O. Fitz Patrick, C.I.E., C.B.E., Agent to the
Governor General, Punjab States, Lahore.

Lieutenant-Colonel D. M. Field, Officiating Agent to the Governor-
General, Madras States, Trivendrum.

Lieutenant-Colonel J. L. R. Weir, Resident at Baroda, Baroda.
 Lieutenant-Colonel F. M. Bailey, C.I.E., Resident in Kashmir, Sialkot.
 Lieutenant-Colonel W. A. M. Garstin, C.B.E., Officiating Resident at
 Gwalior, Gwalior,
 The Foreign and Political Department,
 The Army Department.
 The Chief of the General Staff.
 The Director, Intelligence Bureau.
 The Director of Public Information, for Information.

CIRCULAR LETTER FROM MR. AGARWALLA, ACTING GENERAL SECRETARY, ALL-INDIA CONGRESS COMMITTEE, TO ALL PROVINCIAL CONGRESS COMMITTEES, CIRCULAR NO. 12, DATED THE 6TH MARCH 1935.

Circular have already been sent in connection with the holding of the next session of the Congress at Calcutta.

Though the Government attitude was anticipated it was not definitely known by the time the circulars were despatched. Now that the Government of India has definitely announced its intention of banning the next session of the Congress, our attitude and method of proceeding in the matter of holding the session must be made quite definite.

In the last circular, I had stated that our policy should be of open and fearless defiance without involving any secrecy in the despatch of delegates. Attempts should be made by other provincial and district organizations to nominate their respective quota of delegates to be sent to Calcutta.

On the 24th that is just a week before the holding of the session nominated delegates should start from their respective centres with a view to reach Calcutta. For the first four or five days they should continue to march through the villages distributing handbills, delivering lectures and carrying on propaganda. On the 6th day after the march those who can afford should entrain from the nearest station for Calcutta. Those who cannot afford should continue the march till the 31st. On that day they should convene a meeting of the people in the surrounding area and move resolutions declaring their confidence in the original Working Committee of the Indian National Congress elected at Karachi, reiterating their faith in Satyagraha and reaffirming their determination to continue the struggle till an honourable settlement is arrived at between the Government and the Congress Working Committee consisting of 15 original members.

Like every other art, Satyagraha has its own rules and technique. We can only depart from them at our own peril. It is only by adhering strictly to those rules can we hope to attain our objective. Our aim should be to demonstrate our strength in the country. Therefore our attempt should be to elect delegates to the extent of the quota each province is entitled to, who will be prepared to court every kind of suffering to attend the session. It may be that the Government may not arrest so many people. But our efforts should be to carry on propaganda during the week beginning from 24th March, till the 1st April and force the hands of the Government to arrest the delegates. It will be for the provinces and the districts to decide what way can the hands of the Government be best forced and in what way can the propaganda be most effectively carried in their respective areas. But 24th is the day which is definitely fixed as an all-India Day on which simultaneous march of the delegates should begin. If one batch is arrested it is hoped others will be forthcoming to take their place and to continue the march. In this manner should the

message of the Congress be made to penetrate through every corner of the country. Leaflets containing the Fundamental Rights as enunciated at the Karachi Congress should be printed and widely distributed. Intimation of delegates coming to Calcutta must reach the A. I. C. C. office in time to enable the Reception Committee to make suitable arrangements for their board and lodging. Instructions will be sent to the provincial organizations by the 20th at the latest informing them of the arrangements made here for their accommodation. Delegates must be prepared to meet their own board and lodging expenses and the railway fare back to their respective centres if not arrested at Calcutta. Therefore delegates intending to go to Calcutta should place themselves in touch with their respective provincial organisation for receiving the necessary instructions.

The Government of India as you will have noticed from the speeches made by their representatives have shown their determination to crush the Congress—not merely the Congress but the whole national spirit. How can in the face of such an attitude on the part of the Government, any Congressman either think of coming to terms with it or relax his efforts in prosecuting the campaign of civil disobedience which the Congress was obliged to resume fourteen months back? There can be no question on the part of the Congressmen of suspending their judgment till the White Paper is out or of thinking of any other programme unless and until the repressive policy is withdrawn and all the Congressmen are released. Provincial organisations should be more alert in counteracting any move or suggestion which involves any deflection from the straight path of duty of vigorously prosecuting the programme of civil disobedience. The more so if such move is made by or on behalf of any prominent Congressman in that area.

As was pointed out by Babu Rajendra Prasad in his statement of 4th January 1933, "Satyagrahi knows no defeat". As long as he is convinced of the truthfulness and righteousness of his cause, he should and need fear nothing, not even death, though he be the only one left to fight for his cause. No cause could be more righteous than the cause of country's freedom. No Sacrifice could be too great for a cause. No appeal, however, eloquently worded could be more effective than the fact of thousands of innocent men and women lying behind prison bars, hundreds of thousands more whose homes have been made desolate, and millions still more who are looking up to the Congress to deliver them from the wolves of hunger and of tyranny.

It is hoped that all true Congressmen will accept the challenge which the Government of India has so provokingly thrown once more, and will do their utmost in rallying round the Congress flag.

CIRCULAR LETTER FROM ALL INDIA CONGRESS COMMITTEE, TO ALL PROVINCIAL CONGRESS COMMITTEES, CIRCULAR NO. 13, DATED THE 6TH MARCH 1933.

In the circular No. 6, your committee was requested to convene a meeting of the workers with a view to get their views which they would like to be placed before the Acting President to enable him to frame resolutions for the ensuing session of the Congress. I regret that so far no proposals or suggestions have been received. To facilitate your work and to expedite the matter, I am sending a copy of draft resolutions which you should place before your Committee for its opinion and approval. As many signatures as possible of the members of the A. I. C. C. of your province and of the members of the P. C. C. should be secured. You will kindly send your reply so as to reach us by the 14th at the latest. I know the time is short. However I hope you will consult such workers who can be available

and who represent the feelings and views of your province, in case you are not able to convene a large meeting:—

The following are the draft resolutions:—

- (1) This Congress endorses the resolutions passed at its 46th session at Delhi in 1932 (Resolutions are given below).
- (2) This Congress refuses to enter into the discussion of the proposed constitutional changes so long as its accredited representatives are behind prison bars and the present repressive policy of the Government of India continues.
- (3) This Congress condemns the principle of Imperial Preference embodied in the Ottawa Pact which the Government of India manoeuvred to get passed through the Central Legislature, a body which is wholly unrepresentative of the Indian people. It further declares that the country does not stand committed to the provisions of the Ottawa Pact which have been put in force by the Alien Government inspite of the protests of the Indian Commercial Organisations and advice of those experts who were best entitled to speak on behalf of the economic interests of the country.

RESOLUTIONS PASSED AT THE 46TH SESSION OF THE INDIAN NATIONAL CONGRESS
HELD AT DELHI ON 24TH APRIL 1932.

1. The Congress reiterates Complete Independence as its goal and re-affirms the resolution of independence adopted at its Lahore Session.
2. This Congress fully and wholeheartedly endorses the decisions reached by the Working Committee at its last sitting in Bombay and fully supports the lead given by it to the country in the revival of the civil disobedience.
3. This Congress congratulates the Nation on its splendid response to Mahatma Ghandhi's call to the struggle for freedom and expresses its complete faith in his leadership.
4. This Congress puts on record its high appreciation of the supreme sacrifices of those who were privileged to lay down their lives in the service of their motherland, as the victims of indiscriminate firings and lathi charges by the police and military in various parts of the country notably in the Frontier Province and in Behar.
5. This Congress affirms its deep faith in non-violence and congratulates the country, particularly the brave Pathana of the Frontier Province upon their general adherence to it in spite of grave provocations.

No. 29.—EXPRESS LETTER TO ALL LOCAL GOVERNMENTS AND ADMINISTRATIONS (INCLUDING AJMER-MERWARA), No. D-4037/33-POLL., DATED THE 26TH JUNE 1933.

In my Express letter No. D-1383/33-Poll., dated the 25th February 1933, the Government of India suggested to local Governments that, in view of the decline of civil disobedience it might be desirable to expedite the release of those prisoners who are not likely to resume civil disobedience activities. They explained that they had no intention of modifying their present policy or of doing anything that would involve a general amnesty, the early release of extremist leaders or a general revival of Congress power, but they felt that it might facilitate their policy of a gradual restoration of normal conditions without any spectacular jail delivery, if the number of prisoners were quietly and steadily reduced as rapidly as local

conditions appeared to render reasonable. The majority of local Governments have accepted this policy and given effect to it, and the total number of civil disobedience prisoners has fallen from 13,788 at the end of January 1933 to 12,639 at the end of March and to 9,144 at the end of May.

2. The Government of India have again considered the situation arising out of the suspension of civil disobedience and the continuation of the suspension for a further period of six weeks. Their general view of the situation caused by Mr. Gandhi's statement and the suspension of civil disobedience was given in the fifth Dominions appreciation forwarded to local Governments with my Demi-official letter No. F.-31/33-Poll., dated the 27th May 1933. They do not consider that any reconsideration of that position is required by reason of the renewal of the suspension for a further period of six weeks. This is generally recognised as a mere temporary continuance of an existing situation, a continuance which is necessary in the interests of Congress because they are not at present in a position to reach a definite decision on policy. It is not asserted that this indicates in any way a further gesture of conciliation on their part. The continuation of the suspension therefore does not demand any fresh pronouncement from Government nor any change of Government policy. On the other hand it has to be recognised that the suspension of civil disobedience by Congress has been effected and that their activities have in fact for the present ceased. This fact may well have a bearing on the pace at which releases can safely be carried out, in accordance with the existing policy.

3. What action Congress will take after the end of July it is impossible to predict, but it must be remembered that Government policy is as stated by the Secretary of State that "we must have convincing reasons to believe that releases will not be followed by a revival of the movement". It is not impossible that a situation may arise in which anticipations that civil disobedience will not be revived may become convincing. If such a situation were to develop, it would be easier to deal with it if the numbers of prisoners had been by that time reduced to small proportions.

4. In the light of these considerations, the Government of India would ask local Governments to review the action which is being taken under the existing policy and to inform the Government of India of their conclusions. They have no intention of asking local Governments to do anything that would, in their view, increase the probability of a revival of civil disobedience or the re-establishment of Congress power, and they recognise that a number of those now remaining in jail may be among the most stubborn supporters of the movement whose release might encourage a revival in certain areas.

To Bombay only.

5. In Mr. Maxwell's letter No. S. D.-1163, dated 17th March 1933, the Government of Bombay put forward their reasons against the initiating the policy suggested by the Government of India, but added that they would watch for developments which would, without attracting notice, enable them to pursue the suggestions that had been made. The Government of India at that time accepted this view.

They observe, however, that there has been as yet no very marked reduction in the number of prisoners, which at the end of May was 2,445, the reduction of 487 during that month being probably partly due to the cessation of Congress activities. They would be glad therefore if the Government of Bombay would carefully review the situation, for present conditions appear to be very different from those contemplated at the time of their letter of 17th March 1933.

To North-West Frontier Province only.

6. As was stated in my previous letter, the Secretary of State and the Government of India recognise that conditions in the North-West Frontier

Province are exceptional. It was in view of this that the Government of India in my letter No. D-2969/33-Poll., of the 18th May concurred in the view of the Government of the North-West Frontier Province that nothing further could be done at that time without serious risk of reviving agitation. The Government of India observe that there has been practically no reduction in the total number of prisoners during the last five months and that the number has remained steady at about 1,660. They would be glad if the Governor in Council would again review the position, in the light of the existing conditions created by the suspension of the civil disobedience movement, and consider whether the release of some of the rank and file could not now be expedited, as has been done in other provinces, without any serious risk of encouraging the movement.

No. 30.—DEMI-OFFICIAL LETTER FROM THE HONOURABLE MR. M. G. HALLETT, C.I.E., HOME SECRETARY TO THE GOVERNMENT OF INDIA, TO ALL LOCAL GOVERNMENTS AND ADMINISTRATIONS, NO. S-6624/33, DATED THE 26TH SEPTEMBER 1933.

The statements recently issued by Mr. Gandhi and Pandit Jawahar Lal Nehru make it desirable to take stock of the position and to consider the policy to be followed in dealing with possible developments. It is true that the civil disobedience movement is still at a low ebb and that the first reactions to these statements have not been, such as to justify the anticipation that the new policy will command a large volume of support, but in spite of the somewhat hostile criticism of the statements which has appeared even in national papers it would be rash to assume too complacent an attitude and to regard the new policy as foredoomed to failure.

2. The correspondence, dated the 13th and 14th September, of which I enclose copies, as well as the other statements published recently show that though the Congress as represented by Mr. Gandhi and Pandit Jawahar Lal Nehru are changing, or attempting to change their tactics, there is no diminution in their hostility to Government and no change in their objectives, which, specially as enunciated by Nehru, are definitely revolutionary, for in his letter he has laid stress on the political objective of complete independence and has gone somewhat further than the Karachi resolution in emphasising the necessity of destroying as speedily as possible in the interests of the masses the vested interests of the British Government, Indian Princes and propertied classes. He has also made it clear that individual civil disobedience can develop into mass civil disobedience and has obtained Mr. Gandhi's concurrence to his view that a local organisation can of its own initiative take up mass civil disobedience and go ahead in any direction not contrary to Congress methods or policy. At the same time there are obvious differences between Mr. Gandhi and Pandit Jawahar Lal Nehru in regard to methods and it looks as if the latter would maintain closer contact with the movements that look to violence. The General tactics will presumably be:—

- (a) to keep alive the Congress spirit and try to work up enthusiasm again without at first breaking the law;
- (b) to wait for an opportunity to launch again an intensive agitation. A possible opportunity would be the publication of the Joint Select Committee's report, if that can be represented as involving considerable departure from the White Paper principles. But they will evidently be on the watch for any administrative action that would give an excuse for local agitation;
- (c) Jawahar Lal Nehru will presumably put out a programme of agrarian agitation which is likely to be dangerous; probably certain local areas will be specially selected;

- (d) they will endeavour to keep themselves and their movement before the public by making tours;
- (e) they will endeavour to collect funds.

3. On a programme like this the difficulty would be the attitude of the moderate Congress men who shade away by degrees into constitutionalism. It is not desirable to discourage those who are prepared to adopt constitutional means, but, at the same time nothing must be done out of consideration for them which would allow the extreme and revolutionary Congress party to gather strength.

4. The aim of the Congress will be to maintain its solidarity and put forward a policy that will attract support and enthusiasm in the country, but there are three marked weaknesses in the Congress position:—

- (a) it has not abandoned civil disobedience—that is a serious stumbling block to the right wing;
- (b) Mr. Gandhi's Harijan movement must rouse the antagonism of the orthodox;
- (c) Nehru's communistic ideas must alarm and antagonise those with a stake in the country particularly the landlords.

These weaknesses must be kept clearly in mind, for they will tend to widen the cleavage in Congress ranks, and any such cleavage will lessen its power to wreck the new constitution either from inside or outside.

5. Such being their appreciation of the situation, the Government of India consider that the following should be the main points of Government policy:

- (a) it is important not to let Congress, under its present direction and bearing in mind its definitely revolutionary aims, gradually re-establish its shattered position. On the other hand, it is not desirable to prevent the right wing resuming constitutional activities;
- (b) there should be no hesitation in continuing to deal with those who break the law and countering the subversive activities to which Gandhi and Nehru are really committed;
- (c) any signs of working up mass feeling should be watched carefully, particularly agrarian agitation, and dealt with in the early stages;
- (d) it is important, as far as possible, to anticipate Congress action in connection with movements in themselves unobjectionable, e.g., relief in calamities, legitimate grievances, assistance to depressed classes, etc., by direct action taken by Government. In such matters as floods or agricultural calamities, if Government take early and effective action it will be difficult for Congress to gain much advantage;
- (e) there should be persistent propaganda, both against the remnants of the civil disobedience movement and even more particularly against the communistic ideas of Nehru, which will naturally be alarming even to the right wing Congress men.

6 I am to say that the Government of India desire that no action should be taken against Mr. Gandhi without prior consultation with them. In regard to Mr. Nehru, the same restriction need not apply, and the Government of India are prepared to leave the decision to local Governments, but I am to suggest that he should not be prosecuted on some minor charge, but, if occasion arises, on some more serious charge which will involve a substantial sentence of imprisonment.

No. 31.—TELEGRAM TO ALL LOCAL GOVERNMENTS AND ADMINISTRATIONS (EXCEPT BURMA), No. 821, DATED THE 9TH APRIL 1934 (BY EXPRESS LETTER TO CHIEF COMMISSIONER, DELHI, No. 1484, DATED THE 9TH APRIL 1934). (REPEATED SECRETARY OF STATE FOR INDIA, LONDON.)

The statement issued by Mr. Gandhi about civil resistance makes it necessary for Government to reconsider their attitude in regard to Congress. We interpret the statement as being in effect a calling off of civil disobedience and we do not think it likely that Gandhi will ever make a more unequivocal statement abandoning that policy. The statement it is true is only advice but it appears probable, in particular having regard to the last sentence of the statement, that the next step will be to get the decision ratified by Congress either by a meeting of the All-India Congress Committee or of the working committee or possibly of Congress itself. It might however be left to be put into practical operation without formal ratification as in the case of the Poona decision.

2. Our present policy in regard to meetings of All-India Congress Committee was communicated to you with letter No. 7276, dated 31st October 1933, but we feel in view of this development that if Congress wishes to ratify the change of policy announced by Gandhi, we should do nothing to prevent such ratification and should allow whichever of the central organisations of Congress they select for this purpose to meet. We should be glad to know whether the local Government concur in this policy.

3. Subsequent action would depend to some extent on the resolution passed by the Central organisation but we must, if policy is ratified formally or is without such formal ratification clearly accepted and acted upon, consider the following points:—

(a) Withdrawal of notifications under the Criminal Law Amendment Act. If we allow one of the central organisations to meet and if they pass a resolution on the lines of Gandhi's statement, we consider it will become necessary to withdraw the notifications proscribing provincial and other sub-committees of Congress with the result that buildings and property attached as a result of such notifications will have to be restored. We recognise, however, that it will be dangerous to withdraw notifications in respect of organisations proscribed owing to civil disobedience movement but connected also with other more dangerous movements such as terrorism or communism. Decision about such organisations would be taken by local Governments but it would seem necessary that notifications dealing with committees of Congress should be withdrawn throughout India.

(b) *Release of prisoners.*—The total number of prisoners is not large and we consider that there is no necessity to make any dramatic release of those still in jail. We consider that the existing policy of premature releases where no ill-effects are anticipated should be followed. If in fact civil disobedience has been called off presumably releases will not be followed by any revival of the movement and may therefore proceed with some rapidity. There is of course no question of releasing prisoners convicted of sedition, such as Jawahar Lal Nehru, or of other serious offences.

Bombay only.

(c) (2) There is also the question of prisoners detained under the Regulations. We feel that if the movement is definitely abandoned, it is impossible to justify preventive detention, but we should be glad to know what action you would contemplate about Vallabhai Patel.

(b) (3) We should be glad of your views as to the continuance of the restrictive orders at present in force.

To North-West Frontier Province only.

- (b) (2) There is also the question of prisoners detained under the Regulations. We feel that if the movement is definitely abandoned, it is impossible to justify preventive detention. It may of course be argued that the Red Shirt movement is something different from Gandhi's civil disobedience movement and that therefore action is not called for until this is specifically abandoned. At the same time it may be difficult to hold only the Muslim prisoners of North-West Frontier Province under the Regulation in connection with activities of this kind. We should be glad to know what action you contemplate. We appreciate the view held by you that there are strong objections to allowing Abdul Gaffar Khan and his colleagues to return to the Province or to districts adjacent to it.

To Bengal only.

- (b) (2) We recognise that Sarat Bose's detention is justified on the grounds of his terrorist associations and that you may not consider that this development affects his case.

- (c) We consider it very important that provinces should not part with the special powers obtained by legislation and that these should remain available in case of any local or general revival.

4. Generally our view is that it must be recognised that Congress though suspending civil disobedience for tactical reasons are still hostile to Government. If they abandon their unconstitutional methods, we should do nothing designed to hinder them in that policy, but on the other hand, we should do nothing to suggest that we are entering into friendly relations with Congress for such action will inevitably discourage our supporters and lend access of strength to Congress.

5. We should be glad to have the local Government's views on the points raised above and generally on the new situation which has arisen not later than April 12th.

No. 32.—TELEGRAM TO (1) MADRAS, (2) BOMBAY, (3) BENGAL, (4) UNITED PROVINCES, (5) BIHAR AND ORISSA, (6) CENTRAL PROVINCES, (7) ASSAM, (8) COORG AND (9) AJMER-MERWARA, No. 1195, DATED THE 24TH MAY 1934. (REPEATED SECRETARY OF STATE FOR INDIA, LONDON.)

[Sent by Express letter to (1) Punjab, (2) North-West Frontier, (3) Delhi.]

Reference correspondence forwarded with letter No. F-4/IV/34-Poll., dated the 17th April (Serial No. 24). Policy in regard to Congress.

1. Government of India have considered resolution passed by All-India Congress Committee at Patna. They recognise that the resolution is not an unequivocal withdrawal of civil disobedience and that logically we have right to say that this is not sufficient. On the other hand—

- (a) It was recognised that Gandhi's statement in April created a new situation and Government of India were inclined to interpret it as being in effect a calling off of civil disobedience. They gave Congress an opportunity of ratifying Gandhi's statement, which they have done. If Government refuse to lift ban now on ground that resolution is not satisfactory, they may be accused of going out of their way to prevent restoration of peace and of disregarding facts and concentrating on words. Whether civil disobedience is suspended or withdrawn, the left wing, though unable to do anything to revive it immediately, will presumably seek to revive it later if opportunity offers,

- (b) Resolution, interpreted in light of Gandhi's statement, may be regarded as calling upon Congressmen to desist from civil resistance and thus for present brings civil disobedience to an end. In these circumstances it is doubtful whether it would be justifiable to maintain ban on Congress as an association falling within terms of Criminal Law Amendment Act,
- (c) In place of Swaraj Party designed to be body of Congressmen authorised by Congress to carry out Council programme, Congress Parliamentary Board has been created, and those who follow Council entry policy become Parliamentary wing of Congress. If ban is maintained, they will not be able to function unless they again revive idea of independent Swaraj Party,
- (d) If ban is not withdrawn we must be prepared to stop by force the meeting of Congress in October, and may be faced with some revival of defiance of orders. This situation we could of course meet, but we should be accused of having provoked it.

2. On the other hand Government of India fully recognise that withdrawal of notifications will rehabilitate Congress; in particular that left wing will secure power to reorganise itself and restore its influence. This may have depressing effect on Government supporters, but unless it is considered feasible to try and suppress Congress permanently, we must at some time face this risk. Indeed it is a situation that Congress might at any time during the last year have forced upon us by clear withdrawal of civil disobedience. Situation, however, will be quite different from that following on the Pact. Government will be armed with all their existing powers and will retain completely free hand in using them, either generally or in any local area, if Congress show signs of indulging in any unlawful or subversive activities or harassing Government servants or Government supporters.

3. Having regard to these arguments the Government of India, subject to the views of local Governments, consider that notifications should be withdrawn. If this policy is accepted, they would propose to issue a statement on the following lines:—

- (a) Mr. Gandhi's statement was admittedly open to more than one interpretation. The Government of India, however, were prepared, in agreement with public opinion generally, to regard it as indicating a genuine intention to withdraw civil disobedience as the policy of the Congress reserving to Gandhi the right to practise a method which was unsuitable for others. The Government of India had hoped that the All-India Congress Committee would make their intention quite plain, and would not only ratify Mr. Gandhi's statement, but make it clear that they had called off civil disobedience as a policy. The resolution of the All-India Congress Committee, however, merely accepts the recommendation that civil disobedience should be suspended. If this resolution stood alone, it might be inferred that civil disobedience remains the policy of the Congress though for some undefined, but temporary period it is not to be put in practice. The Congress have, however, decided, by another resolution, to put forward candidates for election to the legislatures on behalf of Congress. This in itself implies the intention of abandoning the unconstitutional methods of civil disobedience and direct action. Looking at the situation as a whole, the Government of India are prepared to take the view that Congress have decided to abandon civil disobedience, which as a practical policy under present conditions may be regarded as already dead. On this interpretation

of the facts, they have decided in consultation with local Governments that the notifications against the various constituent parts of the Congress organization should be withdrawn, so that the Congress may be enabled to carry out its apparent intention of resuming its position as a constitutional party. At the same time the Government of India wish to make it clear that the special laws passed by the Central and Provincial legislatures will continue in force and that action will be taken against any persons who infringe these laws. Further, if activities are pursued by Congress, as a whole or any of its branches which are in prejudice of the law or indicate an intention to revive civil disobedience in any form, Government will not hesitate to reimpose notifications under the Criminal Law Amendment Act which are now being withdrawn.

- (b) During the course of the civil disobedience movement, many revolutionary organisations were proscribed which were distinct from the Congress though working in more or less close association with its objects. Local Governments will not withdraw the notifications against any such revolutionary organisations or any organisations which in their opinion are a danger to the peace of the country. In accordance with this policy the Government of the North-West Frontier Province have decided, with the full approval of the Government of India and the Secretary of State, that the notifications against the Red Shirts Organizations shall continue in force.
- (c) The general policy of expediting release of prisoners convicted of offences connected with civil disobedience will be continued by local Governments in the light of local conditions.

4. The Government of India would be glad to have the considered views of the local Government on these proposals by May 31st.

No. F.4/IV/34-POLL., DATED THE 28TH MAY 1934.

A copy is forwarded to:—

- (1) The Hon'ble Lieut.-Colonel G. C. Tate, Resident at Hyderabad, Hyderabad (Deccan).
- (2) The Hon'ble Lieutenant-Colonel C. T. C. Plowden, C.I.E., Resident at Mysore, Bangalore.
- (3) The Hon'ble Lieutenant-Colonel R. J. Macnabb, Agent to the Governor-General in Central India, Indore.
- (4) The Hon'ble Mr. A. C. Lothian, C.I.E., Agent to the Governor-General in Rajputana and Chief Commissioner, Ajmer-Merwara.
- (5) The Hon'ble Sir Norman Cater, K.C.I.E., Agent to the Governor-General and Chief Commissioner, in Baluchistan, Sibi.
- (6) The Hon'ble Mr. C. Latimer, C.S.I., C.I.E., Agent to the Governor-General in the States of Western India, Rajkot.
- (7) The Hon'ble Sir James Fitzpatrick, K.C.I.E., C.B.E., Agent to the Governor-General, Punjab States, Lahore.
- (8) Lieutenant-Colonel H. Wilberforce-Bell, C.I.E., Agent to the Governor-General, Deccan States and Resident at Kolhapur.
- (9) Lieutenant-Colonel J. L. R. Weir, C.I.E., Agent to the Governor-General, Gujerat States and Resident at Baroda, Baroda.

- (10) E. C. Gibson, Esq., C.I.E., Agent to the Governor-General, Eastern States, Ranchi.
- (11) Lieutenant-Colonel L. E. Lang, C.I.E., M.C., Resident at Kashmir, Srinagar.
- (12) Lieutenant-Colonel D. M. Field, Agent to the Governor-General, Madras States, Trivendrum.
- (13) Lieutenant-Colonel D. G. Wilson, Resident at Gwalior, Gwalior.
- (14) The Foreign and Political Department.
- (15) The Army Department.
- (16) The Chief of the General Staff.
- (17) The Director, Intelligence Bureau.
- (18) The Director of Public Information, for information.

APPENDIX III.

ORDINANCES PROMULGATED TO DEAL WITH THE CIVIL DISOBEDIENCE MOVEMENT.

1. The Indian Press Ordinance, 1930 (No. II of 1930).
2. The Prevention of Intimidation Ordinance, 1930 (No. V of 1930).
3. The Unlawful Instigation Ordinance, 1930 (No. VI of 1930).
4. The Unauthorised News-sheets and Newspapers Ordinance, 1930 (No. VII of 1930).
5. The Unlawful Association Ordinance, 1930 (No. IX of 1930).
6. The Indian Press and Unauthorised News-sheets and Newspapers Ordinance, 1930 (No. X of 1930).
7. The Unlawful Instigation (Second) Ordinance, 1930 (No. XI of 1930).
8. The United Provinces Emergency Powers Ordinance, 1931 (No. XII of 1931).
9. The North-West Frontier Province Emergency Powers Ordinance, 1931 (No. XIII of 1931).
10. The Unlawful Instigation (North-West Frontier Province) Ordinance, 1931 (No. XIV of 1931).
11. The Unlawful Association (North-West Frontier Province) Ordinance, 1931 (No. XV of 1931).
12. The Emergency Powers Ordinance, 1932 (No. II of 1932).
13. The Unlawful Instigation Ordinance, 1932 (No. III of 1932).
14. The Unlawful Association Ordinance, 1932 (No. IV of 1932).
15. The Prevention of Molestation and Boycotting Ordinance, 1932 (No. V of 1932).
16. The Amending Ordinance, 1932 (No. VII of 1932).
17. The Special Powers Ordinance, 1932 (No. X of 1932).

ORDINANCE No. II OF 1930.

AN

ORDINANCE

TO

Provide for the better control of the Press.

WHEREAS an emergency has arisen which makes it necessary to provide for the better control of the Press;

NOW THEREFORE, in exercise of the power conferred by section 72 of the Government of India Act, the Governor General is pleased to make and promulgate the following Ordinance:—

1. (1) This Ordinance may be called the Indian Press Ordinance, Short title and extent. 1930.

(2) It extends to the whole of British India, inclusive of British Baluchistan, the Sonthal Parganas and the Pargana of Spiti.

2. In this Ordinance unless there is anything repugnant in the subject Definitions. or context,—

- (a) "book" includes every volume, part or division of a volume, pamphlet and leaflet in any language, and every sheet of music, map, chart or plan separately printed or lithographed;
- (b) "document" includes also any painting, drawing or photograph or other visible representation;
- (c) "High Court" means the highest Civil Court of Appeal for any local area except in the case of the province of Coorg where it means the High Court of Judicature at Madras;
- (d) "Magistrate" means a District Magistrate or Chief Presidency Magistrate;
- (e) "newspaper" means any periodical work containing public news or comments on public news: and
- (f) "printing-press" includes all engines, machinery, types, lithographic stones, implements, utensils and other plant or materials used for the purpose of printing.

3. (1) Every person keeping a printing-press who is required to make a declaration under section 4 of the Press and Registration of Books Act, 1867, shall, at the time of making the same, deposit with the Magistrate before whom the declaration is made security to such an amount, not being less than five hundred or more than two thousand rupees, as the Magistrate may in each case think fit to require, in money or the equivalent thereof in securities of the Government of India:

Provided that the Magistrate may, if he thinks fit, for special reasons to be recorded by him, dispense with the deposit of any security.

(2) The Magistrate may, at any time, cancel an order dispensing with security and require security to be deposited, and he may, at any time, vary any order fixing the amount of security under this sub-section or under sub-section (1).

(3) Whenever it appears to the Local Government that any printing-press kept in any place in the territories under its administration, in respect of which a declaration was made prior to the commencement of this Ordinance under section 4 of the Press and Registration of Books Act, 1867, is used for any of the purposes described in section 4, sub-section (1), the Local Government may, by notice in writing, require the keeper of such press to deposit with the Magistrate within whose jurisdiction the press

XXV of 1867.

XXV of 1867.

is situated security to such an amount, not being less than five hundred or more than five thousand rupees, as the Local Government may think fit to require, in money or the equivalent thereof in securities of the Government of India.

4. (1) Whenever it appears to the Local Government that any printing-press in respect of which any security has been deposited as required by section 3 is used for the purpose of printing or publishing any newspaper, book or other document containing any words, signs or visible representations which are likely or may have a tendency, directly or indirectly, whether by inference, suggestion, allusion, metaphor implication, or otherwise—

- (a) to incite to murder or to any offence under the Explosive Substances Act, 1908, or to any act of violence, or VI of 1908,
- (b) to seduce any officer, soldier, sailor or airman in the Army, Navy or Air Force of His Majesty or any police officer from his allegiance or his duty, or
- (c) to bring into hatred or contempt His Majesty or the Government established by law in British India or the administration of justice in British India or any Indian Prince or Chief under the suzerainty of His Majesty, or any class or section of His Majesty's subjects in British India, or to excite disaffection towards His Majesty or the said Government or any such Prince or Chief, or
- (d) to put any person in fear or to cause annoyance to him and thereby induce him to deliver to any person any property or valuable security, or to do any act which he is not legally bound to do, or to omit to do any act which he is legally entitled to do, or
- (e) to encourage or incite any person to interfere with the administration of the law or with the maintenance of law and order, or to commit any offence, or to refuse or defer payment of any land-revenue, tax, rate, cess or other due or amount payable to Government or to any local authority, or any rent of agricultural land or anything recoverable as arrears of or along with such rent, or
- (f) to induce a public servant or a servant of a local authority to do any act or to forbear or delay to do any act connected with the exercise of his public functions or to resign his office, or
- (g) to promote feelings of enmity or hatred between different classes of His Majesty's subjects, or,
- (h) to prejudice the recruiting of persons to serve in any of His Majesty's forces, or in any police force, or to prejudice the training, discipline or administration of any such force,

the Local Government may, by notice in writing to the keeper of such printing-press, stating or describing the words, signs or visible representations which in its opinion are of the nature described above, declare the security deposited in respect of such press and all copies of such newspaper, book or other document wherever found in British India to be forfeited to His Majesty.

Explanation I.—In clause (c) the expression “disaffection” includes disloyalty and all feelings of enmity.

Explanation II.—Comments expressing disapproval of the measures of the Government or of any such Indian Prince or Chief as aforesaid with a view to obtain their alteration by lawful means, or of the administrative or other action of the Government or of any such Indian Prince or Chief

or of the administration of justice in British India without exciting or attempting to excite hatred, contempt or disaffection do not come within the scope of clause (c).

(2) After the expiry of ten days from the date of the issue of a notice under sub-section (1), the declaration made in respect of such press under section 4 of the Press and Registration of Books Act, 1867, shall be deemed to be annulled.

XXV of 1867. 5. Where the security given in respect of any press has been declared forfeited under section 4, every person making a deposit of further security. fresh declaration in respect of such press under section 4 of the Press and Registration of Books Act, 1867, shall deposit with the Magistrate before whom such declaration is made security to such amount, not being less than one thousand or more than ten thousand rupees, as the Magistrate may think fit to require, in money or the equivalent thereof in securities of the Government of India.

6 If after such further security has been deposited the printing-press is again used for the purpose of printing or publishing any newspaper, book, or other document containing any words, signs or visible representations which in the opinion of the Local Government, are of the nature described in section 4, sub-section (1), the Local Government may, by notice in writing to the keeper of such printing-press, stating or describing such words, signs or visible representations, declare—

- (a) the further security so deposited,
- (b) the printing-press used for the purpose of printing or publishing such newspaper, book or other document or found in or upon the premises where such newspaper, book or other document is, or at the time of printing the matter complained of was, printed, and
- (c) all copies of such newspaper, book or other document wherever found in British India.

to be forfeited to His Majesty.

7. (1) Where any printing-press is, or any copies of any newspaper, book or other document are, declared forfeited to His Majesty under this Ordinance, the Local Government may direct a Magistrate to issue a warrant empowering any police-officer, not below the rank of a Sub-Inspector, to seize and detain any property ordered to be forfeited and to enter upon and search for such property in any premises—

- (i) where any such property may be or may be reasonably suspected to be, or
- (ii) where any copy of such newspaper, book or other document is kept for sale, distribution, publication, or public exhibition or reasonably suspected to be so kept.

(2) Every warrant issued under this section shall, so far as relates to a search, be executed in manner provided for the execution of search-warrants under the Code of Criminal Procedure, 1898.

V of 1. 98. 8. (1) Every publisher of a newspaper who is required to make a declaration of security by section 5 of the Press and Registration of Books Act, 1867, shall, at the time of making the same, deposit with the Magistrate before whom the declaration is made security to such an amount, not being less than five hundred or more than

two thousand rupees, as the Magistrate may in each case think fit to require, in money or the equivalent thereof in securities of the Government of India: :

Provided that the Magistrate may, if he thinks fit, for special reasons to be recorded by him, dispense with the deposit of any security.

(2) The Magistrate may, at any time, cancel an order dispensing with security and require security to be deposited, and he may, at any time, vary any order fixing the amount of security under this sub-section or under sub-section (1).

(3) Whenever it appears to the Local Government that a newspaper published within its territories, in respect of which a declaration was made by the publisher thereof prior to the commencement of this Ordinance under section 5 of the Press and Registration of Books Act, 1867, contains any words, signs or visible representations of the nature described in section 4, sub-section (1), the Local Government may, by notice in writing, require the publisher to deposit with the Magistrate, within whose jurisdiction the newspaper is published, security to such an amount, not being less than five hundred or more than five thousand rupees, as the Local Government may think fit to require, in money or the equivalent thereof in securities of the Government of India. XXV of 1867.

9. (1) If any newspaper in respect of which any security has been deposited as required by section 8 contains any words, signs or visible representations, which in the opinion of the Local Government, are of the nature described in section 4, sub-section (1), the Local Government may, by notice in writing to the publisher of such newspaper, stating or describing such words, signs or visible representations, declare such security and all copies of such newspaper, wherever found in British India, to be forfeited to His Majesty. XXV of 1867.

(2) After the expiry of ten days from the date of the issue of a notice under sub-section (1), the declaration made by the publisher of such newspaper under section 5 of the Press and Registration of Books Act, 1867, shall be deemed to be annulled.

10 Where the security given in respect of any newspaper is declared forfeited, any person making a fresh declaration under section 5 of the Press and Registration of Books Act, 1867, as publisher of such newspaper, or any other newspaper which is the same in substance as the said newspaper, shall deposit with the Magistrate before whom the declaration is made security to such amount, not being less than one thousand or more than ten thousand rupees, as the Magistrate may think fit to require, in money or the equivalent thereof in securities of the Government of India. XXV of 1867.

11. If, after such further security has been deposited, the newspaper again contains any words, signs or visible representations which, in the opinion of the Local Government, are of the nature described in section 4 sub-section (1), the Local Government may, by notice in writing to the publisher of such newspaper, stating or describing such words, signs or visible representations, declare—

(a) the further security so deposited, and

(b) all copies of such newspaper wherever found in British India, to be forfeited to His Majesty.

12. (1) Where any newspaper, book or other document wherever printed appears to the Local Government to contain any words, signs or visible representations of the nature described in section 4, sub-section (1), the Local Government may, by notification in the local official Gazette, stating the

grounds of its opinion, declared every copy of the issue of the newspaper, and every copy of such book or other document to be forfeited to His Majesty, and thereupon any police-officer may seize the same wherever found in British India, and any Magistrate may by warrant authorise any police officer not below the rank of Sub-Inspector to enter upon and search for the same in any premises where any copy of such issue or any such book or other document may be or may be reasonably suspected to be.

V of 1898.

(2) Every warrant issued under this section shall, so far as relates to a search, be executed in manner provided for the execution of search-warrants under the Code of Criminal Procedure, 1898.

13. The Chief Customs-officer or other officer authorized by the Local Government in this behalf may detain any package brought, whether by land, sea or air, into British India which he suspects to contain any newspapers, books or other documents of the nature described in section 4, sub-section (1), and shall forthwith forward copies of any newspapers, books or other documents found therein to such officer as the Local Government may appoint in this behalf to be disposed of in such manner as the Local Government may direct.

Power to detain packages containing certain publications when imported into British India.

XXV of 183 .

14. No newspaper printed and published in British India shall be transmitted by post unless the printer and publisher have made a declaration under section 5 of the Press and Registration of Books Act, 1867, and the publisher has deposited security when so required under this Ordinance.

Prohibition of transmission by post of certain newspapers.

15. Any officer in charge of a post-office or authorized by the Post-Master General in this behalf may detain any article other than a letter or parcel in course of transmission by post, which he suspects to contain—

Power to detain articles being transmitted by post.

(a) any newspaper, book or other document containing words, signs or visible representations of the nature described in section 4, sub-section (1), or

XXV of 1867.

(b) any newspaper in respect of which the declaration required by section 5 of the Press and Registration of Books Act, 1867, has not been made, or the security required by this Ordinance has not been deposited by the publisher thereof,

and shall deliver all such articles to such officer as the Local Government may appoint in this behalf to be disposed of in such manner as the Local Government may direct.

16. Any person having an interest in any property in respect of which an order of forfeiture has been made under sections 4, 6, 9, 11 or 12 may, within two months from the date of such order, apply to the High Court for the local area in which such order was made, to set aside such order on the ground that the newspaper, book or other document in respect of which the order was made did not contain any words, signs or visible representations of the nature described in section 4, sub-section (1).

Application to High Court to set aside order of forfeiture.

17. Every such application shall be heard and determined by a Special Bench of the High Court composed of three Judges, or, where the High Court consists of less than three Judges, of all the Judges.

Hearing by Special Bench.

18. (1) If it appears to the Special Bench that the words, signs or visible representations contained in the newspaper, book or other document in respect of which the order in question was made were not of the nature described in section 4, sub-section (1), the Special Bench shall set aside the order of forfeiture.

Order of Special Bench setting aside forfeiture.

(2) Where there is a difference of opinion among the Judges forming the Special Bench, the decision shall be in accordance with the opinion of the majority (if any) of those Judges.

(3) Where there is no such majority which concurs in setting aside the order in question, such order shall stand.

19. On the hearing of any such application with reference to any newspaper, any copy of such newspaper published after the commencement of this Ordinance may be given in evidence in aid of the proof of the nature of tendency of the words, signs or visible representations contained in such newspaper, in respect of which the order of forfeiture was made.

Evidence to prove nature of tendency of newspapers.

20. Every High Court shall, as soon as conveniently may be, frame rules to regulate the procedure in the case of such applications, the amount of the costs thereof and the execution of orders passed thereon, and until such rules are framed the practice of such Court in proceedings other than suits and appeals shall apply, so far as may be practicable, to such applications.

Procedure in High Court.

21. Every declaration of forfeiture purporting to be made under this Ordinance shall, as against all persons, be conclusive evidence that the forfeiture therein referred to has taken place, and no proceeding purporting to be taken under this Ordinance shall be called in question by any Court, except the High Court on such application as aforesaid, and no civil or criminal proceeding, except as provided by this Ordinance, shall be instituted against any person for anything done or in good faith intended to be done under this Ordinance.

Jurisdiction barred.

22 (1) Whoever keeps in his possession a press for the printing of books or papers without making a deposit under section 3 or section 5, when required so to do, shall on conviction by a Magistrate be liable to the penalty to which he would be liable if he had failed to make the declaration prescribed by section 4 of the Press and Registration of Books Act, 1867.

Penalty for keeping press or publishing newspaper without making deposit.

XXV of 1867.

(2) Whoever publishes any newspaper without making a deposit under section 8 or section 10, when required so to do, or publishes such newspaper knowing that such security has not been deposited, shall, on conviction by a Magistrate, be liable to the penalty to which he would be liable if he had failed to make the declaration prescribed by section 5 of the Press and Registration of Books Act, 1867.

XXV of 1867.

23. (1) Where a deposit is required from the keeper of a printing-press under sub-section (1) or sub-section (3) of section 3 or under section 5, such press shall not be used for the printing or publishing of any newspaper, book or other document until the deposit has been made.

Power to declare printing-press forfeited if used before deposit is made.

(2) Where any printing-press is used in contravention of sub-section (1), the Local Government may, by notice in writing to the keeper thereof, declare the press so used and any other printing-press found in or upon the premises where such press was so used, to be forfeited to His Majesty; and the provisions of section 7 shall apply.

24. Where any person has deposited any security under this Ordinance and ceases to keep the press in respect of which such security was deposited, or, being a publisher, makes a declaration under section 8 of the Press and Registration of Books Act, 1867, he may apply to the Magistrate within whose jurisdiction such press is situate for the return of the said security; and thereupon such security shall, upon proof to the satisfaction of the Magistrate and subject to the provisions hereinbefore contained, be returned to such person.

Return of deposited security in certain cases.

XXV of 1867.

25. Every notice under this Ordinance shall be sent to a Magistrate, who shall cause it to be served in the manner provided for the service of summonses under the Code of Criminal Procedure, 1898.

V of 1898.

26. Nothing herein contained shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitute an offence against this Ordinance.

Operation of other laws not barred.

XXV of 1867.

27. So long as this Ordinance remains in force, all declarations required to be made under section 4, section 5, section 8 and section 8A of the Press and Registration of Books Act, 1867, shall be made, in a Presidency town before the Chief Presidency Magistrate, and elsewhere before the District Magistrate.

IRWIN,

Viceroy and Governor-General.

SIMLA,

Th. 27th April, 1930.

L. GRAHAM,

Secretary to the Government of India.

HOME DEPARTMENT NOTIFICATION, No. 489-S.-POLITICAL, DATED THE 27TH APRIL 1930.

The following Statement is published for general information:—

A Statement by His Excellency the Governor-General of the reasons which have moved him in exercise of the powers conferred upon him by section 72 of the Government of India Act to make and promulgate an Ordinance to make provision for the better control of the Press under the title of the Indian Press Ordinance, 1930.

H. W. EMERSON,

Secretary to the Government of India.

STATEMENT.

The Indian Press Act, which was passed in 1910 with the object of preventing the dissemination of sedition and of incitements to violence, was repealed in 1922. It was suggested at the time that the Act was not wholly effective for these purposes and that in any case the political situation and the new constitutional outlook rendered its retention undesirable. It was believed that the press, if let to itself, would be able to overcome those malignant influences to which a part of it was subject.

2. On various occasions since 1922 the evil effects of writings in the Indian Press in promoting a spirit of revolution and stirring up extreme hatred of the Government established by law in British India have been brought prominently to notice by certain Local Governments. It has been recognised that the anticipations formed in 1922 have not been fulfilled, but that on the contrary the tone of a certain section of the press has been growing almost steadily worse, with its immunity from effective control. The measure of the effectiveness of the Press Act has been shown very clearly by the remarkable accentuation since its repeal of those features which it was intended to check. Prosecutions are from time to time instituted in the worse cases, but it has always been recognised that these provide only a partial remedy, and looked at broadly are ineffective to control the ceaseless output of extreme seditious and revolutionary propaganda.

3. Nevertheless my Government, looking to the constitutional developments that are anticipated, and confidently expecting that these would operate to remove many of the causes which underlie the extreme hostility of a section of the press, have consistently refused to deal merely with symptoms, while they are engaged in a search for more far reaching remedies.

4. The developments, however, since the initiation of the civil disobedience movement have made it necessary to approach this problem no longer as one of general policy, but as one that constitutes a serious and dangerous emergency. The civil disobedience movement, whatever may have been the professed object of those who launched it, is rapidly developing, as all reasonable men foresaw, into violent resistance to constituted authority. The riots at Calcutta and Karachi, the armed outbreak at Chittagong and grave disturbances at Peshawar show clearly that the spirit of revolution fostered by the civil disobedience movement, is beginning to emerge in dangerous forms. Nothing at the present moment is operating so powerfully to promote that spirit as the writings in the press, many inciting openly to violent and revolutionary actions, others by consistent laudation of the civil disobedience movement, encouraging a spirit of lawlessness throughout the country. In these circumstances I have felt it my duty to promulgate an ordinance which revives the powers of the Press Act of 1910, with certain amendments which the conditions of the present time appeared to require. The measure is not designed to restrict the just liberties of the Press or to check fair criticism of the administration. It is one of emergency, but the emergency is plain and my responsibility for dealing with it is equally plain. I trust that at this time all the more sober and stable elements in India, realising what must now clearly be seen to be the inevitable issue of this lawless movement, will unite with me and my Government in resisting the forces of anarchy and leading the country back into the paths of peace and orderly progress.

IRWIN,

Viceroy and Governor-General.

SIMLA:

The 27th April, 1930.

ORDINANCE No. V of 1930.

AN

ORDINANCE

TO

Provide against certain forms of intimidation.

WHEREAS an emergency has arisen which makes it necessary to provide against certain forms of intimidation;

NOW THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, the Governor General is pleased to make and promulgate the following Ordinance:—

1. (1) This Ordinance may be called the Prevention of Intimidation Short title and extent. Ordinance, 1930.

(2) It shall extend only to such provinces as the Governor General in Council may, by notification in the Gazette of India, specify.

CHAPTER I.

Molestation.

2. This Chapter shall have effect in specified areas in any province, or throughout a province, as the Local Government may, by notification in the local official Gazette, direct.

3. For the purposes of this Chapter, a person is said to molest another person who, with a view to cause such other person to abstain from doing or to do any act which such other person has a right to do or to abstain from doing, obstructs or uses violence to or intimidates such other person or anyone in whom such person is interested, or loiters at or near a house where such person or anyone in whom such person is interested resides or works or carries on business or happens to be, or persistently follows him from place to place, or interferes with any property owned or used by him or deprives him of or hinders him in the use thereof.

4. Whoever molests or abets the molestation of any person shall be punishable with imprisonment which may extend to six months, or with fine, or with both.

V of 1898.

5. Notwithstanding anything contained in the Code of Criminal Procedure, 1898, an offence punishable under section 4 shall be cognisable and non-bailable, and no Magistrate shall take cognisance of any such offence except upon a report in writing of facts which constitute such offence made by a police-officer.

CHAPTER II.

Boycotting.

6. This Chapter shall have effect in specified areas in a province, or throughout a province, as the Local Government may, by notification in the local official Gazette, direct.

7. For the purposes of this Chapter,—

(a) a person is said to “boycott” another person who refuses to deal with, or to let a house or land to, or to render any customary service to such person or any person in whom such person is interested, or refuses to do so on the terms on which such things would be done in the ordinary course, or abstains from such professional or business relations as he would ordinarily maintain with such person; and

XLV of 1860,

(b) a “public servant” includes a public servant as defined in section 21 of the Indian Penal Code, and a servant of a local authority, and a person belonging to any class of person which the Local Government may, by notification in the local official Gazette, declare to be public servants for the purposes of this Chapter.

8. Whoever boycotts or abets the boycotting of a public servant, or threatens a public servant with boycotting, shall be punishable with imprisonment which may extend to six months, or with fine, or with both:

Provided that no person shall be convicted under this section if the Court is satisfied that his acts were not intended to prejudice the public servant boycotted, or proposed or threatened to be boycotted, in the discharge of the duties of his office, or to cause such public servant to terminate

or withhold his services in the discharge of such duties, or to commit a breach of discipline.

9. (1) An offence punishable under section 8 shall be non-cognisable, and, notwithstanding anything contained in the Second Special rules of procedure. Schedule to the Code of Criminal Procedure, 1898, a v of 1898. case relating to such an offence shall, for the purposes of section 204 of the said Code, be deemed to be one in which a warrant should issue in the first instance.

(2) Where information is given to the officer in charge of a police-station of the commission within the limits of such station of an offence punishable under section 8, he shall deal with it in the manner provided in section 154 of the said Code, and, notwithstanding anything contained in sub-section (1) of section 155 of the said Code, he shall investigate the case if he had received an order from a competent Magistrate under sub-section (2) of that section.

CHAPTER III.

Supplemental.

10. No Magistrate other than a Presidency Magistrate or a Magistrate of the first class shall take cognisance of or try any offence under this Ordinance.

11. The Local Government may, by notification in the local official Gazette, declare that any offence punishable under section 188 XLV of 1860. of the Indian Penal Code, or any offence of criminal intimidation, when committed in any area specified in the notification, shall, notwithstanding anything contained in the Code of Criminal Procedure, 1898, be cognisable and non-bailable, and thereupon the said Code shall, while such notification remains in force, be deemed to be amended accordingly.

Power to declare certain non-cognisable and bailable offences to be cognisable and non-bailable.

of the Indian Penal Code, or any offence of criminal intimidation, when committed in any area specified in the notification, shall, notwithstanding anything contained in the Code of Criminal Procedure, 1898, be cognisable and non-bailable, and thereupon the said Code shall, while such notification remains in force, be deemed to be amended accordingly.

IRWIN,

Viceroy and Governor General.

SIMLA;

The 30th May, 1930.

D. G. MITCHELL,

Offg. Secy. to the Govt. of India.

HOME DEPARTMENT, NOTIFICATION No. 736-S.-POLITICAL, DATED THE 30TH MAY 1930.

The following statement is published for general information:—

A statement by His Excellency the Governor General of the reasons which have moved him in exercise of the powers conferred upon him by section 72 of the Government of India Act to make and promulgate an Ordinance to make provision against certain forms of intimidation under the title of the Prevention of Intimidation Ordinance, 1930.

H. W. EMERSON,

Secy. to the Govt. of India.

STATEMENT.

From the beginning of the civil disobedience movement it has been part of the programme of the Congress to use for various purposes the methods of picketing in order to make their will prevail. At the recent meeting of the Working Committee of the All-India Congress Committee held at Allahabad, resolutions were passed which urged the adoption of such methods on more intensive lines. The information received by my Government makes it plain that activities of this kind are now being pursued in various places in such a manner as gravely to interfere with the liberty of individuals in many directions.

2. The most common object with which picketing and other kinds of molestation and intimidation are being employed is for the purpose of preventing the sale of foreign goods or of liquor. It is no part of the duty of my Government, and certainly it is not their desire, to take steps against any legitimate movements directed to these ends. They are anxious to see the promotion of indigenous Indian Industries, and it is perfectly legitimate for any person, in advocacy of this object, to urge the use of Indian goods to the utmost extent of which Indian industry, is capable. Nor have I anything but respect for those who preach the cause of temperance.

But what is not legitimate is for those who desire these ends, proper as they are in themselves, to pursue them by means amounting in effect to intimidation of individuals, and to endeavour to force their views on others, not by argument but by the coercive effect of fear. When resort is had to such methods, it becomes necessary for Government to protect the natural freedom of action of those who may wish to sell and those who may wish to buy.

3. Unscrupulous efforts are also being made by the organisers of the civil disobedience movement to bring pressure to bear on Government servants to resign their posts or fail in their duty. The methods employed include, not only various forms of molestation and intimidation, but also definite attempts to use the weapon of boycott against Government servants. Thus it is found that in different parts of the country, not only are the residences of Government servants picketed and they themselves and their relatives subjected to threats of injury to life or property, but organised attempts are made to refuse them necessary supplies, the use of transport and the tenancy of houses. These methods have reached their maximum intensity in Gujerat, but they are also being practised in other parts of the country.

4. In normal circumstances when intimidation is a comparatively rare offence the ordinary law suffices. But when, as now, intimidation in its various forms is carefully organised and constitutes an important part of the programme of a movement designed to paralyse the Government and to coerce the public, it is necessary to see that powers should be adequate to deal rapidly and effectively with a menace to the public liberty. I have accordingly thought it essential to promulgate an Ordinance which is designed to protect the public in general against molestation and intimidation and to check the boycott of Government servants. These powers will not be used to impede or interfere with the legitimate promotion of any economic movement which has for its object the furtherance of indigenous enterprise, nor will they be exercised in regard to any genuine labour dispute unconnected with political objects. The Ordinance is directed only against certain illegitimate activities which are being organised by the leaders of the civil disobedience movement. It will be withdrawn as soon as those activities cease. The Ordinance, moreover, has been so drafted as to be applied only where the powers are actually required. It will not be applied to any province in which the local Government has not satisfied my Government that the activities of the civil disobedience movement have rendered its

application necessary. Further, within a province, the powers to deal with molestation or with the boycott of Government servants, will come into force only in those areas in which the local Government considers that the situation necessitates their application. But where the situation so demands, I have no doubt that it is my duty to empower local Governments to give protection to those who merely desire to carry on their lawful business and to pursuits without let or hindrance and to safeguard public servants, as far as may be, against the attempt to deprive them by means of boycott of the ordinary requirements of daily life.

IRWIN,

Viceroy and Governor General.

SIMLA;

The 30th May, 1930.

HOME DEPARTMENT, NOTIFICATION NO. 737-S.-POLITICAL, DATED THE 30TH MAY 1930.

In pursuance of sub-section (2) of section 1 of the Prevention of Intimidation Ordinance, 1930 (V of 1930), the Governor General in Council is pleased to specify the province of Bombay as a province to which the said Ordinance extends.

H. W. EMERSON,

Secy. to the Govt. of India.

ORDINANCE No. VI OF 1930.

AN

ORDINANCE

TO

Provide against instigation to the refusal of the payment of certain liabilities.

WHEREAS an emergency has arisen which makes it necessary to provide against instigation to the illegal refusal of the payment of certain liabilities:

Now THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, the Governor General is pleased to make and promulgate the following Ordinance:—

1. (1) This Ordinance may be called the Unlawful Instigation Ordinance, Short title and extent. 1930.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

2. (1) The Governor General in Council may, by notification in the ^{Power to declare notified areas and notified liabilities.} Gazette of India, empower any Local Government to make declarations under sub-sections (2) and (3).

(2) A Local Government empowered in this behalf may, by notification in the local official Gazette, declare that any part of the province or the whole province shall be a notified area for the purposes of this Ordinance.

(3) Such Local Government may further, by the same or by subsequent notification, declare that in such notified area, land-revenue or any sum recoverable as arrears of land-revenue, or any tax, rate, cess or other due or amount payable to Government or to any local authority, or rent of agricultural land, or anything recoverable as arrears of or along with such rent, shall be a notified liability.

3. Whoever, by words either spoken or written, or by signs or by visible representations, or otherwise, instigates, expressly or by implication, any person or class of persons not to pay or to defer payment of any notified liability,

and whoever does any act, with intent or knowing it to be likely that any words, signs or visible representations containing such instigation shall thereby be communicated directly or indirectly to any person or class of persons in a notified area, in any manner whatsoever,

shall be punishable with imprisonment which may extend to six months, or with fine, or with both.

V of 1898.

4. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, an offence punishable under this Ordinance shall be cognisable and non-bailable.

(2) No Magistrate shall take cognisance of any offence punishable under this Ordinance except upon a report in writing of facts which constitute such offence made by a police-officer not below the rank of sub-inspector.

Power to declare certain publications forfeited, and to issue search warrants for the same.

5. (1) Where—

*XLV of 1867.

(a) any newspaper or book as defined in the Press and Registration of Books Act, 1867, or

(b) any document,

wherever made, appears to the Local Government to contain any matter the publication of which is punishable under section 3, the Local Government may, by notification in the local official Gazette, stating the grounds of its opinion, declare every copy of the issue of the newspaper containing such matter, and every copy of such book or other document to be forfeited to His Majesty, and thereupon any police-officer may seize the same, wherever found in British India, and any Magistrate may by warrant authorise any police-officer not below the rank of sub-inspector to enter upon and search for the same in any premises where any copy of such issue or any such book or other document may be or may be reasonably suspected to be.

(2) In sub-section (1) "document" includes also any painting, drawing or photograph, or other visible representation.

V of 1898.

(3) An order of forfeiture under sub-section (1) shall be deemed to be an order of forfeiture under section 99A of the Code of Criminal Procedure, 1898, and sections 99B, 99C, 99D, 99E, 99F and 99G shall apply thereto, with such modifications as may be required to adapt them to the provisions of this Ordinance.

IRWIN,
Viceroy and Governor General.

SIMLA;
The 30th May, 1930.

D. G. MITCHELL,
Offg. Secy. to the Govt. of India.

HOME DEPARTMENT, NOTIFICATION No. 738-S.-POLITICAL, DATED THE 30TH MAY 1930.

The following statement is published for general information:—

A statement by His Excellency the Governor General of the reasons which have moved him in exercise of the powers conferred upon him by

section 72 of the Government of India Act to make and promulgate an Ordinance to make provision against instigation to the refusal of the payment of certain liabilities under the title of the Unlawful Instigation Ordinance, 1930.

H. W. EMERSON,
Secretary to the Government of India.

STATEMENT.

At the meeting of the Working Committee of the All-India Congress Committee held recently at Allahabad a resolution was passed to the effect that the time had arrived for the inauguration of a no-tax campaign by non-payment of specified taxes in certain provinces. Previous to the passing of this resolution a movement for the refusal of the payment of land revenue had been started in certain districts of Gujerat in the Bombay Presidency, and attempts had been made in several other provinces to persuade revenue and tax payers to withhold the payment of their liabilities. The decision above referred to clearly contemplates a wide extension of the civil disobedience movement in the shape of an appeal to the masses which must if successful involve grave reactions upon the administration and the stability of the state.

2. The taxes against which the movement is at present aimed are sources of provincial revenue, and their non-payment would deprive Local Governments of a considerable part of the resources on which they depend for the efficient conduct of the reserved and transferred departments. Were the programme of the Congress to meet with any appreciable measure of success, its first result would be to deprive the people of the advantage of the beneficent activities in which Local Governments are now engaged. It is clear, however, that no Government can tolerate the non-payment of its dues and that the Local Governments, confronted with a challenge of this nature, must exercise to the full the powers of realisation with which they are by law invested. The consequences will inevitably be suffering and distress to those who respond to the incitements of the Congress. Thus, both in the interests of the State and of the persons whom it is the design of the Congress to lead astray it is necessary to stop in its initial stages a movement so fraught with dangerous consequences.

3. While the law gives powers to proceed against persons who refuse to discharge their public liabilities, it does not include provisions by which effective action can be taken against those who, for political purposes, mislead and instigate others to their undoing. Having regard to these considerations and to the necessity of firm and prompt action against a movement, the object of which is to bring the administration to a standstill, I have deemed it necessary to promulgate an Ordinance, by which Local Governments may, as the necessity is established, be invested with powers to deal effectively with persons who instigate others to withhold the payment of certain lawful dues. I have thought it proper to include within the purview of the Ordinance certain liabilities (for instance, the rent of agricultural land) which, although not included in the dues which form the present announced object of attack by the Congress, have been mentioned by them from time to time as coming within the scope of the civil disobedience movement and would indeed in many parts of the country form the inevitable object of attack if any movement were initiated to withhold payment of revenue to Government.

4. The powers taken under the Ordinance will not be used by Local Governments to modify their revenue policy or to attenuate in any way the concessions by way of suspensions, remissions or otherwise which it is their practice to grant. Nor will the Ordinance be used indirectly to

give assistance to landlords in the normal process of realization of rent or to facilitate enhancement of rent. It will be confined strictly to its declared purpose, namely, to prevent instigation in pursuance of a political movement to refuse payments lawfully due. I trust that in taking measures to check at the outset a movement which is intended to disorganise the administration and which must, if successful, damage the whole economic structure of society, I shall have the support of all those who desire to resist a plain threat to orderly progress and stable government.

IRWIN,

Viceroy and Governor General.

SIMLA;

The 30th May, 1930.

HOME DEPARTMENT, NOTIFICATION No. 739-S.-POLITICAL, DATED THE 30TH MAY 1930.

In exercise of the power conferred by sub-section (1) of section 2 of the Unlawful Instigation Ordinance, 1930 (VI of 1930), the Governor General in Council is pleased to empower the Local Government of the province of Bombay to make declarations under sub-sections (2) and (3) of the said section.

H. W. EMERSON,

Secretary to the Government of India.

ORDINANCE No. VII of 1930.

AN

ORDINANCE

TO

Provide for the control of unauthorised news-sheets and newspapers.

WHEREAS an emergency has arisen which makes it necessary to provide for the control of unauthorised news-sheets and newspapers;

NOW THEREFORE, in exercise of the power conferred by section 72 of the Government of India Act, the Governor General is pleased to make and promulgate the following Ordinance:—

1. (1) This Ordinance may be called the Unauthorised News-sheets and Newspapers Ordinance, 1930.
Short title, extent and duration.

(2) It extends to the whole of British India, inclusive of British Baluchistan, the Sonthal Parganas and the Pargana of Spiti.

(3) It shall remain in force so long as the Indian Press Ordinance, 1930, remains in force.

2. In this Ordinance, unless there is anything repugnant in the subject definitions. or context,—

(a) "newspaper" means any periodical work containing public news or comments on public news;

(b) "news-sheet" means any non-periodical document containing public news or comments on public news or any matter described in sub-section (1) of section 4 of the Indian Press Ordinance, 1930;

(c) "press" includes a printing-press and all machines, implements and plant and parts thereof and all materials used for multiplying documents;

(d) "unauthorised newspaper" means—

(i) any newspaper in respect of which there are not for the time being valid declarations under section 5 of the Press and Registration of Books Act, 1867, and

XXV of 1867.

(ii) any newspaper in respect of which security has been required under the Indian Press Ordinance, 1930, but has not been furnished;

(e) "unauthorised news-sheet" means any news-sheet other than a news-sheet published by a person authorised under section 3 to publish it;

(f) "undeclared press" means any press other than a press in respect of which there is for the time being a valid declaration under section 4 of the Press and Registration of Books Act, 1867; and

XXV of 1867.

(g) "document" and "printing-press" have the meanings assigned to them in the Indian Press Ordinance, 1930.

II of 1930.

3. (1) The Chief Presidency Magistrate or the District Magistrate may, by order in writing, authorise any person by name to publish a news-sheet, or to publish news-sheets from time to time.

Authorisation of persons to publish news-sheets.

(2) A copy of an order under sub-section (1) shall be furnished to the person thereby authorised.

(3) The Chief Presidency Magistrate or District Magistrate may at any time revoke an order made by him under sub-section (1).

4. (1) Any police-officer may seize any unauthorised news-sheet or unauthorised newspaper, wherever found.

Power to seize and destroy unauthorised news-sheets and newspapers.

(2) Any Presidency Magistrate, District Magistrate, Sub-divisional Magistrate or Magistrate of the first class may by warrant authorise any police-officer not below the rank of Sub-Inspector to enter upon and search any place where any stock of unauthorised news-sheets or unauthorised newspapers may be or may be reasonably suspected to be, and such police-officer may seize any documents found in such place which, in his opinion, are unauthorised news-sheets or unauthorised newspapers.

(3) All documents seized under sub-section (1) shall be produced as soon as may be before a Presidency Magistrate, District Magistrate, Sub-divisional Magistrate or Magistrate of the first class, and all documents seized under sub-section (2) shall be produced as soon as may be before the Court of the Magistrate who issued the warrant.

(4) If, in the opinion of such Magistrate or Court, any of such documents are unauthorised news-sheets or unauthorised newspapers, the Magistrate or Court may cause them to be destroyed. If, in the opinion of such Magistrate or Court, any of such documents are not unauthorised news-sheets or unauthorised newspapers, such Magistrate or Court shall dispose of them in the manner provided in sections 523, 524 and 525 of the Code of Criminal Procedure, 1898.

V of 1898.

5. (1) Where a Presidency Magistrate, District Magistrate or Sub-divisional Magistrate has reason to believe that an unauthorised news-sheet or unauthorised newspaper is being produced from an undeclared press within the limits of his jurisdiction, he may by warrant authorise any police-officer not below the rank of Sub-Inspector to enter upon and

Power to seize and forfeit undeclared presses producing unauthorised news-sheets and newspapers.

2. In this Ordinance, unless there is anything repugnant in the subject Definitions. or context,—

- (a) "Magistrate" means, in a Presidency-town, the Chief Presidency Magistrate, and elsewhere the District Magistrate;
- (b) "notified place" means a place notified under sub-section (1) of section 3;
- (c) "place" includes also a house, building, tent and vessel; and
- (d) "unlawful association" means an unlawful association within the meaning of section 15 of the Indian Criminal Law Amendment Act, 1908.

XIV of 1908.

3. (1) The Local Government may, by notification in the local official Gazette, notify any place which in its opinion is used for the purpose of an unlawful association.
Power to notify and take possession of place used for the purposes of an unlawful association.

(2) The Magistrate, or any officer authorised in this behalf in writing by the Magistrate, may thereupon take possession of the notified place and evict therefrom any person found therein, and shall forthwith make a report of the taking of possession to the Local Government.

(3) A notified place whereof possession is taken under sub-section (2) shall be deemed to remain in the possession of Government so long as the notification under sub-section (1) in respect thereof remain in force.

4. (1) The Magistrate or officer taking possession of a notified places shall Moveable property also take possession of all moveable property found in a notified place. therein, and shall make a list thereof and submit it, with a report of the taking of possession of such moveable property, to the Local Government

(2) If, in the opinion of the Local Government, any articles specified in the list are or may be used for the purposes of the unlawful association, it may, by order in writing, declare such articles to be forfeited to His Majesty, and may give such directions for the disposal thereof as it may think fit.

(3) All articles specified in the list which are not so forfeited shall be deemed to remain in the possession of Government so long as the notified place in which they were found remains in the possession of Government, and such articles may be used in such manner as the Magistrate may direct.

5. Any person who enters or remains upon a notified place without the permission of the Magistrate, or of an officer authorised by him in this behalf, shall be deemed to commit criminal trespass, and, notwithstanding anything contained in the Code of Criminal Procedure, 1898, any such offence of criminal trespass shall be cognizable and non-bailable.
Trespass upon notified places.

V of 1898.

6. Before this Ordinance ceases to have effect, or before a notification under sub-section (1) of section 3 is cancelled, the The relinquishment of property. Local Government shall give such general or special directions as it may deem requisite regulating the relinquishment by Government of possession of notified places and of moveable property found thereon which has not been forfeited to His Majesty.

7. Every report of the taking of possession of property and every declaration of forfeiture, made or purporting to be made Jurisdiction barred. under this Ordinance, shall, as against all persons, be conclusive proof that the property specified therein has been taken possession of by Government or has been forfeited, as the case may be, and no proceeding purporting to be taken under this Ordinance shall be called in question by any Court, and no civil or criminal proceeding shall be instituted against any person for anything done or in good faith intended to be done

under this Ordinance, or against Government or any person acting on behalf of or by authority of Government for any loss or damage caused to or in respect of any property whereof possession has been taken by Government under this Ordinance.

8. Notwithstanding anything contained in the Code of Criminal Procedure, 1898, all offences punishable under sub-section V of 1898, (1) of section 17 of the Indian Criminal Law Amendment Act, 1908, shall be cognizable and non-bailable. XIV of 1908.

All offences under Act XIV of 1908 to be cognizable and non-bailable.

IRWIN,

Viceroy and Governor General.

SIMLA;

The 10th October, 1930.

D. G. MITCHELL,

Offg. Secy. to the Govt. of India.

HOME DEPARTMENT NOTIFICATION No. D-7293-POLITICAL, DATED THE 10TH OCTOBER 1930.

The following statement is published for general information:—

A statement by His Excellency the Governor General of the reasons which have moved him in exercise of the powers conferred upon him by section 72 of the Government of India Act to make and promulgate an Ordinance to make further provision against association dangerous to the public peace under the title of the Unlawful Association Ordinance, 1930.

H. W. EMERSON,

Secy. to the Govt. of India.

STATEMENT.

The civil disobedience movement has now been in progress for nearly six months. During that period its authors and supporters have done their utmost to subvert the Government as by law established and to propagate a spirit of defiance to constituted authority. They have incited ignorant and credulous people to open and organized breaches of the law and have instigated them to refuse the payment of public dues. They have attempted to undermine the loyalty of the army and the police, and have been the cause, directly or indirectly, of numerous outbreaks of violence. Its leaders have deliberately rejected the way of constitutional representation which lay open to them and have expressed their determination to continue their lawless actions to the utmost of their ability. The movement has already been responsible for much loss of life and property and has inflicted grave financial injury on many thousands of innocent persons, the vast majority of whom are Indians, and have been forced against their will to submit to the methods of coercion and intimidation employed. In view of the declared intention of the Congress to cause still greater damage and suffering to the public, I have considered it my duty to take such further powers as, in the opinion of my Government, will assist in checking the activities of the various organizations, through which effect is being given to the mischievous programme of the civil disobedience movement and other subversive movements.

2. It has been represented to me and my Government that the provisions of the Indian Criminal Law Amendment Act (Act No. XIV of 1908) are defective in so far as they do not enable possession to be taken of buildings and other property used for the purposes of an association that has been declared to be unlawful under the Act. In some parts of the country,

and more particularly in the districts of Gujarat, associations have established their headquarters in towns and villages from which the supporters of the civil disobedience movement carry on their pernicious activities, and seek to persuade the ignorant to defy the law and to refuse the payment of Government dues. In these circumstances I have thought it right to promulgate an Ordinance which will enable Local Governments to take effective measures for the occupation of immoveable property and for the forfeiture in certain conditions of moveable property, used for the purposes of any association declared to be unlawful under the Criminal Law Amendment Act.

3. It is not my desire or that of my Government, in so far as this may be avoided without detriment to the public and general interests which it is the purpose of the Ordinance to protect, that unnecessary loss should be caused to individuals who may have disposed of their property to organizations connected with the civil disobedience and other subversive movements and are not themselves supporters of these movements. With this object in view, I have caused to be issued to Local Governments executive instructions which provide for the grant, as a matter of grace, of reasonable compensation to any person who has suffered loss from the occupation or forfeiture of his property, and in regard to whom there is satisfactory ground for the belief that he has not given direct or indirect support to the movement with which the unlawful association is connected. I have further requested Local Governments to consider with sympathy the return to third parties of property occupied or attached under the Ordinance, provided that it is not required for the purposes of Government, and that the third party concerned gives assurances to the satisfaction of the Local Government in regard to its future use. I desire, however, to make it clear that these instructions primarily relate to associations which are now unlawful or are declared to be unlawful immediately after the promulgation of this Ordinance, and will not ordinarily extend to the case of property used for the purposes of any association that may thereafter be declared unlawful. All those whom it may concern should therefore take due warning against the lease or other disposition of property to any association or any person connected therewith, whose present or future activities may render the association liable to be declared unlawful.

I greatly deplore the necessity by which I have been constrained to make and promulgate this Ordinance and other cognate measures of emergency. But I am persuaded that, if the force of public opinion, which is to an increasing extent being directed against the grave injury which the civil disobedience movement is causing to the country, is exerted yet more effectively to resist its activities and to demand of those responsible for it that it shall be ended; and if public opinion is supported in this resolution by the action and conduct of individual citizens, each in his respective sphere of interest, influence and responsibility, there will be a speedy restoration of such conditions of order and tranquillity as may enable me to regard these measures as no longer necessary.

IRWIN,

Viceroy and Governor-General.

SIMLA;

The 10th October, 1930.

HOME DEPARTMENT NOTIFICATION No. D.-7444-POLITICAL, DATED THE 10TH OCTOBER 1930.

In pursuance of sub-section (2) of section 1 of the Unlawful Association Ordinance, 1930 (IX of 1930), the Governor General in Council is pleased to specify the province of Bombay as a province to which sections 2 to 7 of the said Ordinance extend.

H. W. EMERSON,

Secy. to the Govt. of India.

ORDINANCE No. X OF 1930.

AN

ORDINANCE.

TO

Provide for the better control of the Press and of unauthorised news-sheets and newspapers.

WHEREAS an emergency has arisen which makes it necessary to provide for the better control of the Press and of unauthorised news-sheets and newspapers;

NOW THEREFORE, in exercise of the power conferred by section 72 of the Government of India Act, the Governor General is pleased to make and promulgate the following Ordinance:—

1. (1) This Ordinance may be called the Indian Press and Unauthorised News-sheets and Newspapers Ordinance, 1930.
- (2) It extends to the whole of British India, inclusive of British Baluchistan and the Sonthal Parganas.
2. In this Ordinance, unless there is anything repugnant in the subject Definitions. or context,—
 - (1) "book" includes every volume, part or division of a volume, pamphlet and leaflet, in any language, and every sheet of music, map, chart or plan separately printed or lithographed;
 - (2) "document" includes also any painting, drawing or photograph or other visible representation;
 - (3) "High Court" means the highest Civil Court of Appeal for any local area except in the case of the province of Coorg where it means the High Court of Judicature at Madras;
 - (4) "Magistrate" means a District Magistrate or Chief Presidency Magistrate;
 - (5) "newspaper" means any periodical work containing public news or comments on public news;
 - (6) "news-sheet" means any non-periodical document containing public news or comments on public news or any matter described in sub-section (1) of section 4;
 - (7) "press" includes a printing-press and all machines, implements and plant and parts thereof and all materials used for multiplying documents;
 - (8) "printing-press" includes all engines, machinery, types, lithographic stones, implements, utensils and other plant or materials used for the purpose of printing;
 - (9) "unauthorised newspaper" means—
 - (a) any newspaper in respect of which there are not for the time being valid declarations under section 5 of the Press and Registration of Books Act, 1867, and XXV of 1867.
 - (b) any newspaper in respect of which security has been required under this Ordinance, but has not been furnished;
 - (10) "Unauthorised news-sheet" means any news-sheet other than a news-sheet published by a person authorised under section 15 to publish it; and
 - (11) "undeclared press" means any press other than a press in respect of which there is for the time being a valid declaration under section 4 of the Press and Registration of Books Act, 1867. XXV of 1867.

Control of printing presses and newspapers.

XXV of 1867. Deposit of security by keepers of printing-presses. 3. (1) Every person keeping a printing-press who is required to make a declaration under section 4 of the Press and Registration of Books Act, 1867, shall, at the time of making the same, deposit with the Magistrate before whom the declaration is made security to such an amount, not being less than five hundred or more than two thousand rupees, as the Magistrate may in each case think fit to require, in money or the equivalent thereof in securities of the Government of India :

Provided that the Magistrate may, if he thinks fit, for special reasons to be recorded by him, dispense with the deposit of any security :

Provided further that if a deposit has been required under sub-section (3) from any previous keeper of the printing-press, the security which may be required under this sub-section may amount to five thousand rupees.

(2) The Magistrate may, at any time, cancel an order dispensing with security and require security to be deposited, and he may, at any time, vary any order fixing the amount of security under this sub-section or under sub-section (1).

XXV of 1867. (3) Whenever it appears to the Local Government that any printing-press kept in any place in the territories under its administration, in respect of which a declaration was made prior to the commencement of this Ordinance under section 4 of the Press and Registration of Books Act, 1867, is used for any of the purposes described in section 4, sub-section (1), the Local Government may, by notice in writing, require the keeper of such press to deposit with the Magistrate within whose jurisdiction the press is situated security to such an amount, not being less than five hundred or more than five thousand rupees as the Local Government may think fit to require, in money or the equivalent thereof in securities of the Government of India.

Power to declare security forfeited in certain cases. 4. (1) Whenever it appears to the Local Government that any printing-press in respect of which any security has been deposited as required by section 3 is used for the purpose of printing or publishing any newspaper, book or other document containing any words, signs or visible representations which are likely or may have a tendency, directly or indirectly, whether by inference, suggestion, allusion, metaphor, implication or otherwise—

VI of 1908. (a) to incite to murder or to any offence under the Explosive Substances Act, 1908, or to any act of violence, or

(b) to seduce any officer, soldier, sailor or airman in the Army, Navy or Air Force of His Majesty or any police-officer from his allegiance or his duty or,

(c) to bring into hatred or contempt His Majesty or the Government established by law in British India or the administration of justice in British India or any Indian Prince or Chief under the suzerainty of His Majesty, or any class or section of His Majesty's subjects in British India or to excite disaffection towards His Majesty or the said Government or any such Prince or Chief, or

(d) to put any person in fear or to cause annoyance to him and thereby induce him to deliver to any person any property or valuable security, or to do any act which he is not legally bound to do, or to omit to do any act which he is legally entitled to do, or

- (e) to encourage or incite any person to interfere with the administration of the law or with the maintenance of law and order, or to commit any offence, or to refuse, or defer payment of any land-revenue, tax, rate, cess or other due or amount payable to Government or to any local authority, or any rent of agricultural land or anything recoverable as arrears of or along with such rent, or
- (f) to induce a public servant or a servant of a local authority to do any act or to forbear or delay to do any act connected with the exercise of his public functions or to resign his office, or
- (g) to promote feelings of enmity or hatred between different classes of His Majesty's subjects, or
- (h) to prejudice the recruiting of persons to serve in any of His Majesty's forces, or in any police force, or to prejudice the training, discipline or administration of any such force,

the Local Government may, by notice in writing to the keeper of such printing-press, stating or describing the words, signs or visible representations which in its opinion are of the nature described above, declare the security deposited in respect of such press, or any portion thereof, and all copies of such newspaper, book or other document wherever found in British India to be forfeited to His Majesty.

Explanation I.—In clause (c) the expression “disaffection” includes disloyalty and all feelings of enmity.

Explanation II.—Comments expressing disapproval of the measures of the Government or of any such Indian Prince or Chief as aforesaid with a view to obtain their alteration by lawful means or of the administrative or other action of the Government or of any such Indian Prince or Chief or of the administration of justice in British India without exciting or attempting to excite hatred, contempt or disaffection do not come within the scope of clause (c).

(2) After the expiry of ten days from the date of the issue of a notice under sub-section (1), the declaration made in respect of such press under section 4 of the Press and Registration of Books Act, 1867, shall be deemed to be annulled. XXV of 1867.

5. (1) Where the security given in respect of any press, or any portion thereof, has been declared forfeited under section 4, every person making a fresh declaration in respect of such press under section 4 of the Press and Registration of Books Act, 1867, shall deposit with the Magistrate before whom such declaration is made security to such an amount, not being less than one-thousand or more than ten thousand rupees, as the Magistrate may think fit to require, in money or the equivalent thereof in securities of the Government of India. XXV of 1867.

(2) Where a portion only of the security given in respect of such press has been declared forfeited under section 4, any unforfeited balance still in deposit shall be taken as part of the amount of security required under sub-section (1).

6. If after such further security has been deposited the printing-press is again used for the purpose of printing or publishing any newspaper, book or other document containing any words, signs or visible representations which, in the opinion of the Local Government, are of the nature described in section 4, sub-section (1), the Local Government may, by notice in writing to the keeper of such

Power to declare further security, printing-press and publications forfeited.

printing-press, stating or describing of such words, signs or visible representations, declare—

- (a) the further security so deposited, or any portion thereof,
- (b) the printing-press used for the purpose of printing or publishing such newspaper, book or other document or found in or upon the premises where such newspaper, book or other document is, or at the time of printing the matter complained of was, printed, and
- (c) all copies of such newspaper, book or other document wherever found in British India

to be forfeited to His Majesty.

XXV of 1867. 7. (1) Every publisher of a newspaper who is required to make a declaration under section 5 of the Press and Registration of Books Act, 1867, shall, at the time of making the same, deposit with the Magistrate before whom the declaration is made security to such an amount, not being less than five hundred or more than two thousand rupees, as the Magistrate may in each case think fit to require, in money or the equivalent thereof in securities of the Government of India:

Provided that the Magistrate may, if he thinks fit, for special reasons to be recorded by him, dispense with the deposit of any security:

Provided further that if a deposit has been required under sub-section (3) from any previous publisher of the newspaper, the security which may be required under this sub-section may amount to five thousand rupees.

(2) The Magistrate may, at any time, cancel an order dispensing with security and require security to be deposited, and he may, at any time, vary any order fixing the amount of security under this sub-section or under sub-section (1).

XXV of 1867. (3) Whenever it appears to the Local Government that a newspaper published within its territories, in respect of which a declaration was made by the publisher thereof prior to the commencement of this Ordinance under section 5 of the Press and Registration of Books Act, 1867, contains any words, signs or visible representations of the nature described in section 4, sub-section (1), the Local Government may, by notice in writing, require the publisher to deposit with the Magistrate, within whose jurisdiction the newspaper is published, security to such an amount, not being less than five hundred or more than five thousand rupees, as the Local Government may think fit to require, in money or the equivalent thereof in securities of the Government of India.

Power to declare security forfeited in certain cases. 8. (1) If any newspaper in respect of which any security has been deposited as required by section 7 contains any words, signs or visible representations which, in the opinion of the Local Government, are of the nature described in section 4, sub-section (1), the Local Government may, by notice in writing to the publisher of such newspaper, stating or describing such words, signs or visible representations, declare such security, or any portion thereof, and all copies of such newspaper, wherever found in British India, to be forfeited to His Majesty.

XXV of 1867. (2) After the expiry of ten days from the date of the issue of a notice under sub-section (1), the declaration made by the publisher of such newspaper under section 5 of the Press and Registration of Books Act, 1867, shall be deemed to be annulled.

9. (2) Where the security given in respect of any newspaper, or any portion thereof, is declared forfeited under section 8, or section 10, any person making a fresh declaration under section 5 of the Press and Registration of Books Act, 1867, as publisher of such newspaper, or any other newspaper which is the same in substance as the said newspaper, shall deposit with the Magistrate before whom the declaration is made security to such an amount, not being less than one thousand or more than ten thousand rupees, as the Magistrate may think fit to require, in money or the equivalent thereof in securities of the Government of India. **XXV of 1867.**

(2) Where a portion only of the security given in respect of such newspaper has been declared forfeited under section 8 or section 10, any unforfeited balance still in deposit shall be taken as part of the amount of security required under sub-section (1).

10. (1) If, after such further security has been deposited, the newspaper again contains any words, signs or visible representations which, in the opinion of the Local Government, are of the nature described in section 4, sub-section (1), the Local Government may, by notice in writing to the publisher of such newspaper, stating or describing such words, signs or visible representations, declare—

(a) the further security so deposited, or any portion thereof, and

(b) all copies of such newspaper wherever found in British India to be forfeited to His Majesty.

(2) After the expiry of ten days from the date of the issue of a notice under sub-section (1), the declaration made by the publisher of such newspaper under section 5 of the Press and Registration of Books Act, 1867, shall be deemed to be annulled and no further declaration in respect of such newspaper shall be made save with the permission of the Local Government. **XXV of 1867.**

11. (1) Whoever keeps in his possession a press for the printing of books or papers without making a deposit under section 3 or section 5, when required so to do, shall on conviction by a Magistrate be liable to the penalty to which he would be liable if he had failed to make the declaration prescribed by section 4 of the Press and Registration of Books Act, 1867. **XXV of 1867.**

(2) Whoever publishes any newspaper without making a deposit under section 7 or section 9, when required so to do, or publishes such newspaper knowing that such security has not been deposited, shall, on conviction by a Magistrate, be liable to the penalty to which he would be liable if he had failed to make the declaration prescribed by section 5 of the Press and Registration of Books Act, 1867. **XXV of 1867.**

12. (1) Where a deposit is required from the keeper of a printing-press under sub-section (1) or sub-section (3) of section 3 or under section 5, such press shall not be used for the printing or publishing of any newspaper, book or other document until the deposit has been made.

(2) Where any printing-press is used in contravention of sub-section (1), the Local Government may, by notice in writing to the keeper thereof, declare the press so used and any other printing-press found in or upon the premises where such press was so used, to be forfeited to His Majesty.

13. Where any person has deposited any security under this Ordinance and ceases to keep the press in respect of which such security was deposited, or, being a publisher, makes a declaration under section 8 of the Press and Registration of Books Act, 1867, he may apply to the Magistrate within whose jurisdiction such press is situate for the return of the said security; and thereupon such security shall, upon proof to the satisfaction of the Magistrate and subject to the provisions hereinbefore contained, be returned to such person.

Return of deposited security in certain cases.

XXV of 1867.

14. Where any printing-press is, or any copies of any newspaper, book or other document are, declared forfeited to His Majesty under section 4, section 6, section 8, section 10 or section 12, the Local Government may direct a Magistrate to issue a warrant empowering any police-officer, not below the rank of Sub-Inspector, to seize and detain any property ordered to be forfeited and to enter upon and search for such property in any premises—

Issue of search warrant.

(i) where any such property may be or may be reasonably suspected to be, or

(ii) where any copy of such newspaper, book or other document is kept for sale, distribution, publication or public exhibition or is reasonably suspected to be so kept.

Unauthorised news-sheets and newspapers.

15. (1) The Magistrate may, by order in writing and subject to such conditions as he may think fit to impose, authorise any person by name to publish a news-sheet, or to publish news-sheets from time to time.

Authorisation of persons to publish news-sheets.

(2) A copy of an order under sub-section (1) shall be furnished to the person thereby authorised.

(3) The Magistrate may at any time revoke an order made by him under sub-section (1).

16. (1) Any police-officer, or any other person empowered in this behalf by the Local Government, may seize any unauthorised news-sheet or unauthorised newspaper, wherever found.

Power to seize and destroy unauthorised news-sheets and newspapers.

(2) Any Presidency Magistrate, District Magistrate, Sub-divisional Magistrate or Magistrate of the first-class may by warrant authorise any police-officer not below the rank of Sub-Inspector to enter upon and search any place where any stock of unauthorised news-sheets or unauthorised newspapers may be or may be reasonably suspected to be, and such police-officer may seize any documents found in such place which, in his opinion, are unauthorised news-sheets or unauthorised newspapers.

(3) All documents seized under sub-section (1) shall be produced as soon as may be before a Presidency Magistrate, District Magistrate, Sub-divisional Magistrate or Magistrate of the first class, and all documents seized under sub-section (2) shall be produced as soon as may be before the Court of the Magistrate who issued the warrant.

(4) If, in the opinion of such Magistrate or Court, any of such documents are unauthorised news-sheets or unauthorised newspapers, the Magistrate or Court may cause them to be destroyed. If, in the opinion of such Magistrate, or Court, any of such documents are not unauthorised news-sheets or unauthorised newspapers, such Magistrate or Court shall dispose of them in the manner provided in sections 523, 524 and 525 of the Code of Criminal Procedure, 1898.

17. (1) Where a Presidency Magistrate, District Magistrate or Sub-divisional Magistrate has reason to believe that an

Power to seize and forfeit undeclared presses producing unauthorised news-sheets and newspapers.

unauthorised news-sheet or unauthorised newspaper is being produced from an undeclared press within the limits of his jurisdiction, he may by warrant authorise any police-officer not below the rank of

Sub-Inspector to enter upon and search any place wherein such undeclared press may be or may be reasonably suspected to be, and if, in the opinion of such police-officer, any press found in such place is an undeclared press and is used to produce an unauthorised news-sheet or unauthorised newspaper, he may seize such press and any documents found in the place which in his opinion are unauthorised news-sheets or unauthorised newspapers.

(2) The police-officer shall make a report of the search to the Court which issued the warrant and shall produce before such Court, as soon as may be, all property seized :

Provided that where any press which has been seized cannot be readily removed, the police-officer may produce before the Court only such parts thereof as he may think fit.

(3) If such Court, after such inquiry as it may deem requisite, is of opinion that a press seized under this section is an undeclared press which is used to produce an unauthorised news-sheet or unauthorised newspaper, it may, by order in writing, declare the press to be forfeited to His Majesty. If, after such inquiry, the Court is not of such opinion, it shall dispose of the press in the manner provided in sections 523, 524 and 525 of the Code of Criminal Procedure, 1898.

v of 1898.

(4) The Court shall deal with documents produced before it under this section in the manner provided in sub-section (4) of section 16.

18. (1) Whoever makes, sells, distributes, publishes or publicly exhibits or keeps for sale, distribution or publication, any unauthorised news-sheet or newspaper, shall be punishable with imprisonment which may extend to six months, or with fine, or with both.

Penalty for disseminating unauthorised news-sheets and newspapers.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, any offence punishable under sub-section (1), and any abetment of any such offence, shall be cognisable and non-bailable.

Special provisions relating to the seizure of certain documents.

19. Where any newspaper, book or other document, wherever made ap-

Power to declare certain publications forfeited and to issue search warrants for same.

pears to the Local Government to contain any words, signs or visible representations of the nature described in section 4, sub-section (1), the Local Government may, by notification in the local official Gazette, stating the grounds of its opinion, declare

every copy of the issue of the newspaper, and every copy of such book or other document to be forfeited to His Majesty, and thereupon any police-officer may seize the same wherever found in British India, and any Magistrate may by warrant authorise any police-officer not below the rank of Sub-Inspector to enter upon and search for the same in any premises where any copy of such issue or any such book or other document may be or may be reasonably suspected to be.

20. The Chief Customs-officer or other officer authorised by the Local

Power to detain packages containing certain publications when imported into British India.

Government in this behalf may detain any package brought, whether by land, sea or air, into British India which he suspects to contain any newspapers, books or other documents of the nature described in section 4, sub-section (1), and shall forthwith for-

ward copies of any newspapers, books, or other documents found therein

to such officer as the Local Government may appoint in this behalf to be disposed of in such manner as the Local Government may direct.

21. No unauthorised news-sheet or unauthorised newspaper shall be transmitted by post.
Prohibition of transmission by post of certain documents.

22. Any officer in charge of a post-office or authorised by the Post-Master General in this behalf may detain any article other than a letter or parcel in course of transmission by post, which he suspects to contain—
Power to detain articles being transmitted by post.

(a) any newspaper, book or other document containing words, signs or visible representations of the nature described in section 4, sub-section (1), or

(b) any unauthorised news-sheet or unauthorised newspaper, and shall deliver all such articles to such officer as the Local Government may appoint in this behalf to be disposed of in such manner as the Local Government may direct.

Powers of High Court.

23. Any person having an interest in any property in respect of which an order of forfeiture has been made under section 4, section 6, section 8, section 10 or section 19 may, within two months from the date of such order, apply to the High Court for the local area in which such order was made, to set aside such order on the ground that the newspaper, book or other document in respect of which the order was made did not contain any words, signs or visible representations of the nature described in section 4, sub-section (1).
Application to High Court to set aside order of forfeiture.

24. Every such application shall be heard and determined by a Special Bench of the High Court composed of three Judges, or, where the High Court consists of less than three Judges, of all the Judges.
Hearing by special Bench.

25. (1) If it appears to the Special Bench that the words, signs or visible representations contained in the newspaper, book or other document in respect of which the order in question was made were not of the nature described in section 4, sub-section (1), the Special Bench shall set aside the order of forfeiture.
Order of Special Bench setting aside forfeiture.

(2) Where there is a difference of opinion among the Judges forming the Special Bench, the decision shall be in accordance with the opinion of the majority (if any) of those Judges.

(3) Where there is no such majority which concurs in setting aside the order in question, such order shall stand.

26. On the hearing of any such application with reference to any newspaper, any copy of such newspaper published after the commencement of this Ordinance may be given in evidence in aid of the proof of the nature or tendency of the words, signs or visible representations contained in such newspaper, in respect of which the order of forfeiture was made.
Evidence to prove nature or tendency of newspapers.

27. Every High Court shall, as soon as conveniently, may be, frame rules to regulate the procedure in the case of such applications, the amount of the costs thereof and the execution of orders passed thereon, and until such rules are framed the practice of such Court in proceedings other than suits and appeals shall apply, so far as may be practicable, to such applications.
Procedure in High Court.

Supplemental.

28. Every notice under this Ordinance shall be sent to a Magistrate, who shall cause it to be served in the manner provided for the service of summonses under the Code of Criminal Procedure, 1898: V of 1898.

Provided that if service in such manner cannot be by the exercise of due diligence be effected, the serving officer shall, where the notice is directed to the keeper of a press, affix a copy thereof to some conspicuous part of the place where the press is situate, as described in the keeper's declaration under section 4 of the Press and Registration of Books Act, 1867, and XXV of 1867. where the notice is directed to the publisher of a newspaper, to some conspicuous part of the premises where the publication of such newspaper is conducted, as given in the publisher's declaration under section 5 of the said Act; and thereupon the notice shall be deemed to have been duly served.

29. Every warrant issued under this Ordinance shall, so far as it relates to a search, be executed in the manner provided for the execution of search-warrants under the Code of Criminal Procedure, 1898. V of 1898.

30. Every declaration of forfeiture purporting to be made under this Ordinance shall, as against all persons, be conclusive evidence that the forfeiture therein referred to has taken place, and no proceeding purporting to be taken under this Ordinance shall be called in question by any Court, except the High Court on application under section 23, and no civil or criminal proceeding, except as provided by this Ordinance, shall be instituted against any person for anything done in good faith intended to be done under this Ordinance.

31. Nothing herein contained shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Ordinance.

32. So long as this Ordinance remains in force, all declarations required to be made under section 4, section 5, section 8 and section 8A of the Press and Registration of Books Act, 1867, shall be made, in a Presidency-town before the Chief Presidency Magistrate, and elsewhere before the District Magistrate. XXV of 1867.

IRWIN,
Viceroy and Governor-General.

The 23rd December, 1930.

L. GRAHAM,
Secretary to the Government of India.

HOME DEPARTMENT NOTIFICATION No. D. 9064-POLITICAL, DATED THE 23RD DECEMBER 1930.

The following statement is published for general information:—

A statement by His Excellency the Governor-General of the reasons which have moved him in exercise of the powers conferred upon him by section 72 of the Government of India Act to make and promulgate an Ordinance to make provision for the better control of the Press and of unauthorised news-sheets and newspapers under the title of the Indian Press and Unauthorised News-sheets and Newspapers Ordinance, 1930.

H. W. EMERSON,
Secretary to the Government of India.

STATEMENT.

When I promulgated the Press Ordinance on the 27th of April 1930, I said that, whatever might have been the professed objects of those who launched the civil disobedience movement, it was rapidly developing into violent resistance to constituted authority. Events during the months that have since passed have sufficiently proved the truth of the apprehensions I then expressed, and it is only by vigorous action and constant vigilance that control of the situation has been maintained. But though the measures taken by Government combined with a growing recognition by the public of the dangers with which the movement is fraught, have averted the more serious consequences that might have been anticipated, the activities of those responsible for the movement are still manifest in the continued efforts that are being made to challenge the authority of constituted Government and which are a grave menace to public tranquillity.

At the same time, there has lately been a serious increase in premeditated crimes committed by those who have rejected the methods of non-violence. There is no room for doubt that inflammatory writings in the press both stimulate recruitment to the revolutionary movement and incite to the commission of violent crimes.

2. With the expiry of the Press Ordinance on the 26th of October last, it was my hope and that of my Government that the press would observe such reasonable restraint as would make it unnecessary to restore the powers that had lapsed. I regret that those hopes have been disappointed and that it is again necessary to resort to special measures. I regret this the more because it is my earnest hope, as it is that of my Government, that the deliberations now proceeding in London may bring to India a permanent solution of her political troubles, and I trust that it may be possible to dispense with these special powers at no distant date. But since the lapse of the earlier Ordinances there has been progressive deterioration in the tone of the press, and this has been particularly marked during the past few weeks. It is again the policy of many newspapers consistently to encourage the civil disobedience movement, and thus to foster conditions of disorder, while others, which suspended publication while the Ordinance was in force, are again giving direct or indirect incitement to violent and revolutionary crime. I am satisfied that writings of this nature are material factors in the creation of the state of emergency which exists, and in regard to which it is my duty to take special powers. I have accordingly promulgated an Ordinance for the better control of the press and of unauthorised news-sheets and newspapers. It is not my desire that the Ordinance should restrict the just liberties of the press or should check fair criticism of the administration or of constitutional proposals. Nor is it my desire that action should be taken under this Ordinance in regard to writings published previous to its promulgation and I have caused the necessary instructions in this respect to be issued to Local Governments.

3. I regret that having regard to the urgent necessity of taking measures to meet the present situation, I have not thought it possible to await the meeting of the Central Legislature, but it is the intention of my Government to bring the matter before it at the earliest opportunity.

IRWIN,

Viceroy and Governor-General.

The 23rd December, 1930.

ORDINANCE No. XI of 1930.

AND

ORDINANCE

TO

Provide against instigation to the refusal of the payment of certain liabilities.

WHEREAS an emergency has arisen which makes it necessary to provide against instigation to the illegal refusal of the payment of certain liabilities:

NOW THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, the Governor General is pleased to make and promulgate the following Ordinance:—

1. (1) This Ordinance may be called the Unlawful Instigation (Second) Short title and extent. Ordinance, 1930.

(2) It extends to whole of British India, including British Baluchistan and the Sonthal Parganas.

2. (1) The Governor General in Council may, by notification in the Gazette of India, empower any Local Government to make declarations under sub-sections (2) and (3).
Power to declare notified areas and notified liabilities.

(2) A Local Government empowered in this behalf may, by notification in the local official Gazette, declare that any part of the province or the whole province shall be a notified area for the purposes of this Ordinance.

(3) Such Local Government may further, by the same or by subsequent notification, declare that in such notified area, land-revenue or any sum recoverable as arrears of land-revenue, or any tax, rate, cess or other due or amount payable to Government or to any local authority, or rent of agricultural land, or anything recoverable as arrears of or along with such rent, shall be a notified liability.

3. Whoever by words either spoken or written, or by signs or by visible representations, or otherwise, instigates, expressly or by implication, any person or class of persons not to pay or to defer payment of any notified liability,
Punishment for unlawful instigation to the non-payment of notified liability.

and whoever does any act, with intent or knowing it to be likely that any words, signs or visible representations containing such instigation shall thereby be communicated directly or indirectly to any person or class of persons in a notified area, in any manner whatsoever,

shall be punishable with imprisonment which may extend to six months, or with fine, or with both.

4. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, an offence punishable under this Ordinance shall be cognisable and non-bailable.
Special rules of procedure.

(2) No Magistrate shall take cognisance of any offence punishable under this Ordinance except upon a report in writing of facts which constitute such offence made by a police-officer not below the rank of sub-inspector.

IRWIN,

Viceroy and Governor-General.

The 23rd December 1930.

L. GRAHAM,

Secretary to the Government of India.

HOME DEPARTMENT NOTIFICATION, No. D-8780-POLITICAL, DATED THE
23RD DECEMBER 1930.

The following statement is published for general information:—

A statement by His Excellency the Governor-General of the reasons which have moved him in exercise of the powers conferred upon him by section 72 of the Government of India Act to make and promulgate an Ordinance to make provision against instigation to the refusal of the payment of certain liabilities under the title of the Unlawful Instigation (Second) Ordinance, 1930.

H. W. EMERSON,

Secretary to the Government of India.

STATEMENT.

In stating the reasons for which I conceived it to be my duty to promulgate an Ordinance for the better control of the press I made it clear that activities in pursuance of the civil disobedience movement have created a state of affairs, by which public tranquillity is threatened. It is part of the programme of those who direct the movement to bring the administration to a stand-still by inducing revenue and tax payers to withhold payments due to Government. From time to time attempts have been made to give effect to this plan in various parts of the country and for some months past there has been contumacious refusal on the part of landholders in certain areas of Gujerat to pay land-revenue. This disavowal of obligations has been organised and instigated by volunteers working in aid of the civil disobedience movement, and it is their particular object at the present time to obstruct the recovery of the instalment of land-revenue, which is now in process of collection. I have also received information that within the past few weeks a similar campaign has been definitely launched in the United Provinces with the approval of Congress leaders and that active propaganda is now being carried on in many villages of that province in furtherance of the civil disobedience movement and with a view to refusal of revenue and rent. I am further satisfied that elsewhere attempts have lately been renewed to persuade those liable for the payment of Chaukidari Tax to withhold their dues.

Were the efforts now being made in different parts of the country to meet with any considerable measure of success, the consequences to the administration would be grave.

2. The law gives adequate powers to proceed against those who, although able to do so, contumaciously refuse to pay their public dues; but it does not provide the means by which action can be taken against those who for political ends cause loss and suffering to tax or revenue payers by instigating them to withhold payments legally due. Having regard, therefore, to the general spirit of lawlessness fostered by the civil disobedience movement and to the particular danger to the State involved in the refusal to pay public dues, I have considered it necessary to promulgate an Ordinance by which Local Governments may, as circumstances require, take action against persons who instigate others to refuse the fulfilment of certain lawful obligations.

3. When I promulgated a similar Ordinance on the 30th of May last, I stated that the powers then taken would not be used by Local Governments to modify their revenue policy or to attenuate in any way the concessions by way of suspension, remissions or otherwise which it is their practice to grant; and, that, further, the Ordinance would not be used indirectly to give assistance to landlords in the normal process of realisation of rent or to facilitate the enhancement of rent. I stated that it would be

confined strictly to its declared purpose, namely, to prevent instigation in pursuance of a political movement to refuse payments lawfully due. I desire on this occasion to repeat those assurances. I am very conscious of the fact that economic conditions in rural areas are the cause of much anxiety to those who are dependent on agriculture, and I know that Local Governments are giving their most careful consideration to the problems created by the low values of agricultural produce. In promulgating this Ordinance it is my desire that the difficulties in which land-owners and cultivators are placed shall not be increased by the mischievous activities of persons who are seeking to take advantage of economic conditions for their own ends, regardless of the consequences to those whom they purpose to mislead. It is also my desire that the task of Local Governments in giving such relief as is possible to genuine economic distress shall not be complicated or confused by the intervention of issues, which are introduced for the sole purpose of embarrassing orderly administration. No person need have any cause for fear that the Ordinance will be used for other than the purposes above stated, and I look with confidence to the public to give their co-operation and support against a movement the object of which is to make it impossible for Government to continue their ordinary functions on which depend the maintenance of order and the stability of the social system.

4. I regret that the urgent nature of the emergency in regard to which this Ordinance is promulgated has not allowed the matter to be brought at this stage before the Legislature, but it is the intention of my Government to bring it before the Central Legislature at the earliest opportunity.

IRWIN,

Viceroy and Governor-General.

The 23rd December 1930.

HOME DEPARTMENT NOTIFICATION, NO. D.-9230-POLITICAL, DATED THE
23RD DECEMBER 1930.

In exercise of the power conferred by sub-section (1) of section 2 of the Unlawful Instigation (Second) Ordinance, 1930 (XI of 1930), the Governor General in Council is pleased to empower the Local Governments of the provinces of Bombay, the United Provinces of Agra and Oudh, the Punjab, Bihar and Orissa, Assam and the North-West Frontier Province to make declarations under sub-sections (2) and (3) of the said section.

H. W. EMERSON,

Secretary to the Government of India.

ORDINANCE No. XII OF 1931.

AND

ORDINANCE.

TO

Provide against instigation to the illegal refusal of the payment of certain liabilities and to confer special powers on the Government of the United Provinces and its officers for the purpose of maintaining law and order.

WHEREAS an emergency has arisen which makes it necessary to provide against instigation to the illegal refusal of the payment of certain liabilities and to confer special powers on the Government of the United Provinces and its officers for the purpose of maintaining law and order;

NOW THEREFORE, in exercise of the power conferred by section 72 of the Government of India Act, the Governor General is pleased to make and promulgate the following Ordinance:—

1. (1) This Ordinance may be called the United Provinces Emergency
Short title, extent and Powers Ordinance, 1931.
commencement.

(2) It extends to the whole of the United Provinces, except section 21, which extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

(3) This section and section 21 shall come into force at once. The remaining provisions of this Ordinance shall come into force at once in the districts of Allahabad, Rae Bareilly, Unao, Cawnpore and Etawah only, but the Local Government may, by notification in the local official Gazette, declare that any or all of such provisions shall come into force in any area of the United Provinces on such date as may be appointed in the notification.

✓ of 1898.

2. In this Ordinance, "the Code" means the Code of Criminal Procedure,
Definition. 1898.

CHAPTER I.

EMERGENCY POWERS.

3. The Local Government may, by notification in the local official Gazette, declare that in any area in which this
Power to declare notified liabilities.
section is in force land-revenue or any sum recoverable as arrears of land-revenue, or any tax, rate, cess or other due or amount payable to Government or to any local authority, or rent of agricultural land, or anything recoverable as arrears of or along with such rent, shall be a notified liability.

4. (1) Any person to whom an arrear of a notified liability is due may
Power to collect an arrear of a notified liability as an arrear of land-revenue.
apply in writing to the Collector to realise it, and the Collector may, after satisfying himself that the amount claimed is due, proceed to recover it as an arrear of land-revenue, in accordance with the law applicable to the recovery of arrears of land-revenue in the area concerned.

(2) Nothing in this section or in section 23 shall prevent any person to whom an arrear of a notified liability is due from recovering it in accordance with the law applicable to the recovery of such arrear, or any person from whom any amount has been recovered under this section in excess of the amount due from him from recovering such excess in accordance with law from the person on whose behalf the Collector has realised it.

5. (1) The Local Government, if satisfied that there are reasonable grounds for believing that any person has acted, is acting, or is about to act, in a manner prejudicial to the public safety or peace, may, by order in writing, give any one or more of the following directions, namely, that such person—
Power to control suspected persons.

(a) shall not enter, reside or remain in any area specified in the order;

(b) shall reside or remain in any area specified in the order;

(c) shall remove himself from, and shall not return, to, any area specified in the order;

(d) shall conduct himself in such manner, abstain from such acts, or take such order with any property in his possession or under his control, as may be specified in the order.

(2) An order made under sub-section (1) shall not, unless the Local Government by special order otherwise directs, remain in force for more than one month from the making thereof.

(3) An order made under sub-section (1) shall be served on the person to whom it relates in the manner provided in the Code for service of a summons.

6. (1) If, in the opinion of the Local Government, any land or building can, be utilised as quarters or offices for public servants, or for the accommodation of troops or police, or for the purpose of giving effect to this Ordinance or any order made thereunder, or otherwise for the public advantage, the Local Government may, by order in writing, require the occupier or other person in charge of the land or building to place it at the disposal of Government at such time as may be specified in the order, together with the whole, or any part specified in the order, of any fixtures, fittings, furniture or other things for the time being in the building, and the Local Government may dispose of or use such land, building, fixtures, fittings, furniture or other things in such manner as it may consider expedient.

(2) In this section "building" includes any portion or portions of a building whether separately occupied or not.

(3) The Collector may, on the application of any person who has suffered loss by the exercise of the powers conferred by this section, award to such person such compensation as he thinks reasonable.

7. The District Magistrate may, by order in writing, prohibit or limit in such way as he may think necessary for the public advantage, access to any building or place in the possession or under the control of Government or of any railway administration or local authority, or to any building or place in the occupation, whether permanent or otherwise, of His Majesty's Naval, Military or Air Forces or of any police force, or to any place in the vicinity of any such building or place.

8. The District Magistrate, if satisfied that there are reasonable grounds for believing that any person has used, is using or is about to use any vehicle or means of transport in his possession or under his control in a manner prejudicial to the public safety or peace, may, by order in writing, require such person to take such order therewith for such period as may be specified in the order.

9. Any officer of Government authorised in this behalf by general or special order of the Local Government may, within any area specified in such order, require any landholder, village headman, lambardar, inamdardar or jagirdar, or any officer or servant of any local authority, or any teacher in any school, college or other educational institution, to assist in the restoration and maintenance of law and order and in the protection of property in the possession or under the control of Government or of any railway administration or local authority, in such manner and within such limits as the officer so authorised may specify.

10. The power to issue search-warrants conferred by section 98 of the Code shall be deemed to include a power to issue warrants authorising—

(a) the search of any place in which any Magistrate mentioned in that section has reason to believe that any offence under this Ordinance or any act prejudicial to the public safety or peace

has been, is being or is about to be committed, or that preparation for the commission of any such offence or act is being made;

- (b) the seizure in or on any place searched under clause (a) of anything which the officer executing the warrant has reason to believe is being used, or is intended to be used, for any purpose mentioned in that clause;

and the provisions of the Code shall, so far as may be, apply to searches made under the authority of any warrant issued, and to the disposal of any property seized, under this section.

11. If any person disobeys or neglects to comply with an order made, direction given, or condition prescribed, in accordance with the provisions of this Chapter, the authority which made the Order, gave the direction or prescribed the condition may take or cause to be taken such action as it thinks necessary to give effect thereto.

CHAPTER II.

PENALTIES.

12. (1) Whoever, by words either spoken or written, or by signs or by visible representations, or otherwise, instigates, expressly or by implication, any person or class of persons not to pay or to defer payment of any notified liability,

and whoever does any act, with intent or knowing it to be likely that any words, signs or visible representations containing such instigation shall thereby be communicated directly or indirectly to any person or class of persons in any manner whatsoever,

shall be punishable with imprisonment which may extend to six months, or with fine, or with both.

- (2) No Magistrate shall take cognizance of any offence punishable under this section except upon a report in writing of facts which constitute such offence made by a police officer not below the rank of sub-inspector, or upon receiving a complaint of facts which constitute such offence made by a revenue officer not below the rank of Naib Tehsildar.

13. Whoever disobeys or neglects to comply with any order made or direction given in accordance with the provisions of section 5 shall be punishable with imprisonment which may extend to two years, or with fine, or with both.

14. Subject to the provisions of section 13, whoever disobeys or neglects to comply with any order made, direction given, or condition prescribed in accordance with the provisions of Chapter I, or impedes the lawful exercise of any power referred to in that Chapter, shall be punishable with imprisonment which may extend to six months, or with fine, or with both.

15. Whoever induces or attempts to induce any public servant or any servant of a local authority or any railway servant to disregard or fail in his duty as such servant shall be punishable with imprisonment which may extend to one year, or with fine, or with both.

16. Whoever dissuades or attempts to dissuade any person from entering the military or police service of His Majesty shall be punishable with imprisonment which may extend to one year, or with fine, or with both.

Dissuasion from enlistment.

17. (1) Where it appears to the Local Government that the inhabitants of any area are concerned in the commission of offences or other acts which are prejudicial to the maintenance of law and order or to the public revenues, or are harbouring persons concerned in the commission of such offences or acts, the Local Government may, by notification in the local official Gazette, impose a collective fine on the inhabitants of that area.

Imposition of collective fine on inhabitants of turbulent areas.

(2) The Local Government may exempt any person or class or section of such inhabitants from liability to pay any portion of such fine.

(3) The District Magistrate, after such inquiry as he may deem necessary, shall apportion such fine among the inhabitants who are liable collectively to pay it, and such apportionment shall be made according to the District Magistrate's judgment of the respective means of such inhabitants.

(4) The portion of such fine payable by any person may be recovered from him as a fine or as arrears of land-revenue.

(5) The Local Government may award compensation out of the proceeds of a fine realised under this section to any person who, in the opinion of the Local Government, has suffered injury to person or property by the unlawful act of the inhabitants of the area.

Explanation.—For the purposes of this section, the “inhabitants” of an area include persons who themselves or by their agents or servants occupy or hold land or other immovable property within such area, and landlords who themselves or by their agents or servants collect rents from holders or occupiers of land in such area, notwithstanding that they do not actually reside therein.

18. Whoever publishes, circulates or repeats in public any passage from a newspaper, book or other document copies whereof have been declared to be forfeited to His Majesty under section 99A of the Code, or under the Indian Press (Emergency Powers) Act, 1931, as amended **XXIII of 1931**, by section 21 or under any other enactment for the time being in force, shall be punishable with imprisonment which may extend to six months, or with fine, or with both.

Dissemination of contents of proscribed documents.

19. (1) Where any young person under the age of sixteen years is convicted by any Court of an offence under this Ordinance or of an offence which in the opinion of the Court has been committed in furtherance of a movement prejudicial to the public safety or peace, and such young person is sentenced to fine, the Court may order that the fine shall be paid by the parent or guardian of such young person as if it had been a fine imposed upon the parent or guardian:

Power to Direct payment by parent or guardian of fine imposed on a young person.

Provided that no such order shall be made unless the parent or guardian has had an opportunity to appear before the Court and be heard.

(2) In any such case the Court may direct by its order that in default of payment of the fine by the parent or guardian, the parent or guardian shall suffer imprisonment as if the parent or guardian had himself been convicted of the offence for which the young person is convicted.

CHAPTER III.

SUPPLEMENTAL.

20. The Local Government may invest the District Magistrate with all, of the powers of a Local Government under sub-section (1) of section 5 or under section 6.
- Delegation of powers.
21. So long as this Ordinance remains in force, sub-section (1) of section 4 of the Indian Press (Emergency Powers) Act, 1931, shall be deemed to be amended as follows, namely:—
- XXIII of 1931. Temporary amendment of Act XXIII of 1931.
- (i) at the end of clause (b), the word “or” shall be added, and
- (ii) after clause (b), the following clause shall be inserted, namely:—
- “(c) any matter which instigates, expressly or by implication, any person or class of persons not to pay or to defer payment of any liability, arising anywhere in the United Provinces, of the same kind as a liability which has been declared by notification under section 3 of the United Provinces Emergency Powers Ordinance, 1931, to be a notified liability in any area of the United Provinces.”
22. Notwithstanding anything contained in the Code, no Magistrate of the third class shall have jurisdiction to try any offence punishable under this Ordinance.
- Limitation of jurisdiction.
23. Except as provided in this Ordinance, no proceeding or order purporting to be taken or made under this Ordinance shall be called in question by any Court, and no civil or criminal proceeding shall be instituted against any person for anything done, or in good faith intended to be done, under this Ordinance.
- Bar of jurisdiction.
24. Nothing contained in this Ordinance shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence punishable under this Ordinance.
- Operation of other penal laws not barred.
25. Notwithstanding anything contained in the Code, any offence punishable under this Ordinance shall be cognizable and non-bailable.
- Offences under the Ordinance to be cognizable and non-bailable.
26. (1) Notwithstanding anything contained in the Code, an offence punishable under sections 160, 186, 187, 188, 189, 227, 228, 295A, 298, 505, 506, 507 or 508 of the Indian Penal Code, or under section 17 of the Indian Criminal Law Amendment Act, 1908, shall be cognizable and non-bailable.
- XLV of 1860. Certain other offences to be cognizable and non-bailable.
- XIV of 1908.
- (2) Notwithstanding anything contained in section 195 or section 196 of the Code, any Court otherwise competent to take cognizance of an offence punishable under sections 186, 187, 188, 228, 295A or 505 of the Indian Penal Code may take cognizance of such offence upon a police-report being made to it under clause (a) of sub-section (1) of section 173 of the Code, but shall not proceed with the trial unless it has received a complaint in respect of such offence under section 195 or section 196 as the case may be, and the absence of such complaint shall be reasonable cause, within the meaning of section 344 of the Code, for postponing the commencement of the trial and for remanding the accused.
- XLV of 1860.

WILLINGDON,

*Viceroy and Governor-General.*CALCUTTA;
*The 14th December, 1931.*L. GRAHAM,
Secretary to the Government of India.

ORDINANCE No. XIII OF 1931.

AN

ORDINANCE

TO

Confer special powers on the Government of the North-West Frontier Province and its officers for the purpose of maintaining law and order.

WHEREAS an emergency has arisen which makes it necessary to confer special powers upon the Government of the North-West Frontier Province and its officers for the purpose of maintaining law and order;

Now THEREFORE, in exercise of the power conferred by section 72 of the Government of India Act, the Governor General is pleased to make and promulgate the following Ordinance:—

CHAPTER I.

PRELIMINARY.

1. (1) This Ordinance may be called the North-West Frontier Province Emergency Powers Ordinance, 1931.
Short title and extent.

(2) It extends to the whole of the North-West Frontier Province.

2. In this Ordinance, unless there is anything repugnant in the subject or context, "the Code" means the Code of Criminal Procedure, 1898.
Definition.

V of 1898.

CHAPTER II.

EMERGENCY POWERS.

3. (1) Any officer of Government authorised in this behalf by general or special order of the Local Government may, if satisfied that there are reasonable grounds for believing that any person has acted, is acting, or is about to act, in a manner prejudicial to the public safety or peace, arrest such person without warrant, and may, in so, doing, use any means that may be necessary.
Power to arrest and detain suspected persons.

(2) An officer making an arrest under this section shall forthwith report the fact to the Local Government and may, by order in writing, commit any person so arrested to such custody as the Local Government may, by general or special order; specify in this behalf:

Provided that no person shall, unless the Local Government by special order otherwise directs, be so detained in custody for a period exceeding fifteen days:

Provided further that no person shall be so detained in custody for a period exceeding two months.

4. (1) The Local Government, if satisfied that there are reasonable grounds for believing that any person has acted, is acting, or is about to act, in a manner prejudicial to the public safety or peace, may, by order in writing, give any one or more of the following directions, namely, that such person—
Power to control suspected persons.

(a) shall not enter, reside or remain in any area specified in the order;

(b) shall reside or remain in any area specified in the order;

(c) shall remove himself from, and shall not return to, any area specified in the order;

(d) shall conduct himself in such manner, abstain from such acts, or take such order with any property in his possession or under his control, as may be specified in the order.

(2) An order made under sub-section (1) shall not, unless the Local Government by special order otherwise directs, remain in force for more than one month from the making thereof.

(3) An order made under sub-section (1) shall be served on the person to whom it relates in the manner provided in the Code for service of a summons.

5. (1) If, in the opinion of the Local Government, any land or building can be utilised as quarters or offices for public servants, or for the accommodation of troops or police, or for the purpose of giving effect to this Ordinance or any order made thereunder, or otherwise for the public advantage, the Local Government may, by order in writing, require the occupier or other person in charge of the land or building to place it at the disposal of Government at such time as may be specified in the order, together with the whole, or any part specified in the order, of any fixtures, fittings, furniture or other things for the time being in the building; and the Local Government may dispose of or use such land, building, fixtures, fittings, furniture or other things in such manner as it may consider expedient.

(2) In this section "building" includes any portion or portions of a building whether separately occupied or not.

6. The District Magistrate may, by order in writing, prohibit or limit, in such way as he may think necessary for the public advantage, access to any building or place in the possession or under the control of Government or of any railway administration or local authority, or to any building or place in the occupation, whether permanent or otherwise, of His Majesty's Naval, Military or Air Forces or of any police force, or to any place in the vicinity of any such building or place.

7. The District Magistrate may, by order in writing, prohibit or regulate, in such way as he may think necessary for the public advantage, traffic over any road, pathway, bridge, waterway or ferry.

8. (1) If, in the opinion of the Local Government, it is necessary for the public advantage to control the supply of any commodity of general use in any area, the Local Government may, by notification in the local official Gazette, make a declaration to that effect.

(2) In any area to which a declaration under sub-section (1) extends, the Local Government may exercise all or any of the following powers in regard to the commodity to which the declaration relates, namely:—

(a) it may, by general or special order in writing, require any trader to make a return in such form and within such time and to such authority as may be specified in the order of the stocks of such commodity held by him or consigned to him or under order on his account; of any contracts for the supply to or by him of such commodity or for or in connection with the production or manufacture of such commodity, and of any other dealing by him therein; of the persons with whom and the prices at which any such contracts or other dealings were made or had or the prices at which such commodity has been

bought or sold by him; of the cost of production of such commodity, so far as it may be known to him, and the profits usually made or expected by him on the sale thereof; and of any other matters specified in the order with respect to which, in the opinion of the Local Government, it is desirable to obtain information for the purpose of controlling the price of such commodity;

(b) it may, by notification in the local official Gazette, prescribe the conditions under which (including the maximum price at which and the persons by whom and to whom) such commodity may be sold; and such conditions may be general for the whole area or may vary as regards different localities therein, and different conditions may be prescribed for different classes of such commodity;

(c) it may, by order in writing, require a trader to place the whole or any portion of his stock, whether immediately available or not, at the disposal of the Local Government at such time and place and in such manner as may be specified in the order, on receiving payment therefor at the price or prices fixed under clause (b).

(3) In this section "trader" includes a manufacturer, producer, warehouse-keeper or vendor, and, in the case of a vendor, a wholesale or retail vendor whether acting on his own behalf or on behalf of any other person, and, if not acting on his own behalf, the person on whose behalf he is acting.

9. If, in the opinion of the Local Government, any product, article or thing, or any class of product, article or thing, can be utilised for the public advantage, the Local Government may, by order in writing, require any owner or person in charge of such product, article or thing to place it at the disposal of Government at such time and place as may be specified in the order; and the Local Government may dispose of or use it in such manner as it may consider expedient.

10. (1) The District Magistrate may, by order in writing, require any person to make, in such form and within such time and to such authority as may be specified in the order, a return of any vehicles or means of transport owned by him or in his possession or under his control.

(2) The District Magistrate, if, in his opinion, it is necessary for the public advantage, may, by order in writing, require any person owning or having in his possession or under his control any vehicle or means of transport to take such order therewith for such period as may be specified in the order.

11. (1) The District Magistrate may, by order in writing published in such manner as he thinks best adapted for informing the persons concerned,—

(a) prohibit, either absolutely or subject to such exception as may be specified in the order, the purchase, sale or delivery of, or other dealing in, any arms, parts of arms, ammunition or explosive substances; or

(b) direct that any person owning or having in his possession or under his control any arms, parts of arms, ammunition or explosive substances, shall keep the same in a secure place approved by the District Magistrate or remove them to any place specified in the order.

(2) The District Magistrate may take possession of—

(a) any arms, ammunition or explosives, or

(b) any tools, machinery, implements or other material of any kind, likely, in his opinion, to be utilised, whether by the owner or by any other person, for the purpose of causing unlawful hurt or damage to any person or to any property of Government or of any railway administration or of any local authority, and may make such orders as he may think fit for the custody and disposal thereof.

12. Any officer of Government authorised in this behalf by general or special order of the Local Government may, within any area specified in such order, appoint persons as special police officers; and any person so appointed shall be deemed to have been appointed as a special police officer in accordance with the provisions of any enactment relating to the appointment of special police officers in force in that area.

13. Any officer of Government authorised in this behalf by general or special order of the Local Government may, within any area specified in such order, require any landholder, village headman, lambardar, inamdar or jagirdar, or any officer or servant of any local authority, or any teacher in any school, college or other educational institution to assist in the restoration and maintenance of law and order and in the protection of property in the possession or under the control of Government or of any railway administration or local authority in such manner and, within such limits as the officer so authorised may specify.

14. If, in the opinion of the Local Government, it is necessary for the public advantage to secure the continuance of any public utility service, as defined in section 2 of the Trade Disputes Act, 1929, other than a public utility service owned by Government, the Local Government may—

(a) by order in writing, require the owner or person in charge of the utility service or of any thing ancillary thereto, or the person in control of any establishment ancillary thereto, to take or abstain from such action in respect of the supply of such service as may be specified in the order; or

(b) after giving notice in writing to the owner or person in charge of the utility service or of any thing ancillary thereto or to the person in control of any establishment ancillary thereto or, if such owner or person has disobeyed, or neglected to comply with, an order made under clause (a), without such notice, assume control of such service, thing or establishment, and take such order therewith as may, in the opinion of the Local Government, be necessary to secure the continuance of such service.

15. The District Magistrate, if, in his opinion, it is necessary for the public advantage, may, in consultation with the chief postal authority in the district, control the operation of any post, telegraph, telephone or wireless office or station and, in particular, may intercept any postal article or telegraphic, telephonic or wireless message in the course of transmission, may ascertain its contents and may prohibit its further transmission.

16. The District Magistrate may—

(a) require accommodation to be provided on any railway train or any vessel for any passengers or goods, and, for this purpose, exclude from such train or vessel any passengers or goods which it is already carrying or about to carry;

- (b) require that any specified persons or classes of persons or persons proposing to travel to specified destinations, or any specified goods or classes of goods or goods consigned to specified destinations, shall not be carried on any railway or vessel;
- (c) exclude or eject any passenger from any train or vessel;
- (d) stop, or prohibit the stopping of trains or vessels at any station; or
- (e) in consultation with the local railway authorities, require special trains to be provided for the conveyance of troops, police or other persons.

17. The District Magistrate may, by order in writing, depute one or more police officers, not below the rank of head constable, or other persons, to attend any public meeting for the purpose of causing a report to be made of the proceedings, and may, by such order authorise the persons so deputed to take with them an escort of police officers.

Explanation.—For the purposes of this section a public meeting is any meeting which is open to the public or to any class or portion of the public, and a meeting may be a public meeting notwithstanding that it is held in a private place and notwithstanding that admission thereto is restricted by ticket or otherwise.

18. The power to issue search-warrants conferred by section 98 of the Code shall be deemed to include a power to issue warrants authorising—

- (a) the search of any place in which any Magistrate mentioned in that section has reason to believe that any offence under this Ordinance or any act prejudicial to the public safety or peace has been, is being or is about to be committed, or that preparation for the commission of any such offence or act is being made;
- (b) the seizure in or on any place searched under clause (a) of anything which the officer executing the warrant has reason to believe is being used, or is intended to be used, for any purpose mentioned in that clause;

and the provisions of the Code shall, so far as may be, apply to searches made under the authority of any warrant issued, and to the disposal of any property seized, under this section.

19. Any authority on which any power is conferred by or under this Chapter may, by general or special order, authorise any person to enter and search any place the search of which such authority has reason to believe to be necessary for the purpose of—

- (a) ascertaining whether it is necessary or expedient to exercise such power; or
- (b) ascertaining whether any order given, direction made, or condition prescribed in the exercise of such power has been duly complied with; or
- (c) generally, giving effect to such power or securing compliance with, or giving effect to, any order given, direction made or condition prescribed in the exercise of such power.

20. If any person disobeys or neglects to comply with an order made, direction given, or condition prescribed, in accordance with the provisions of this Chapter, the authority which made the order, gave the direction or condition prescribed in the exercise of such power, may take or cause to be taken such action as it thinks necessary to give effect thereto.

CHAPTER III.

PENALTIES.

21. Whoever disobeys or neglects to comply with any order made or direction given in accordance with the provisions of section 4 shall be punishable with imprisonment which may extend to two years, or with fine, or with both.

Penalty for disobeying order under section 4.

22. Subject to the provisions of section 21, whoever disobeys or neglects to comply with any order made, direction given, or condition prescribed in accordance with the provisions of Chapter II, or impedes the lawful exercise of any power referred to in that Chapter, shall be punishable with imprisonment which may extend to six months, or with fine, or with both.

Penalty for disobeying other orders under Chapter II.

23. Whoever induces or attempts to induce any public servant or any servant of a local authority or any railway servant to disregard or fail in his duty as such servant shall be punishable with imprisonment which may extend to one year, or with fine, or with both.

Tampering with public servants.

24. Whoever dissuades or attempts to dissuade any person from entering the military or police service of His Majesty shall be punishable with imprisonment which may extend to one year, or with fine, or with both.

Dissuasion from enlistment.

25. Whoever by words, whether spoken or written, or by signs or by visible or audible representations or otherwise publishes any statement, rumour or report which is false and which he has no reasonable ground to believe to be true, with intent to cause or which is likely to cause fear or alarm to the public or to any section of the public, or hatred or contempt towards any public servants, or any class of His Majesty's subjects, shall be punishable with imprisonment which may extend to one year, or with fine, or with both.

Dissemination of false rumours.

26. (1) Where it appears to the Local Government that the inhabitants of any area are concerned in the commission of offences or other acts which are prejudicial to the maintenance of law and order or to the public revenues, or are harbouring persons concerned in the commission of such offences or acts, the Local Government may, by notification in the local official Gazette, impose a collective fine on the inhabitants of that area.

Imposition of collective fine on inhabitants of turbulent areas.

(2) The Local Government may exempt any person or class or section of such inhabitants from liability to pay any portion of such fine.

(3) The District Magistrate, after such inquiry as he may deem necessary, shall apportion such fine among the inhabitants who are liable collectively to pay it, and such apportionment shall be made according to the District Magistrate's judgment of the respective means of such inhabitants.

(4) The portion of such fine payable by any person may be recovered from him as a fine or as arrears of land revenue.

(5) The Local Government may award compensation out of the proceeds of a fine realised under this section to any person who, in the opinion of the Local Government, has suffered injury to person or property by the unlawful acts of the inhabitants of the area.

Explanation.—For the purposes of this section, the “inhabitants” of an area includes persons who themselves or by their agents or servants occupy or hold land or other immoveable property within such area, and landlords

who themselves or by their agents or servants collect rents from holders or occupiers of land in such area, notwithstanding that they do not actually reside therein.

27. Whoever publishes, circulates or repeats in public any passage from a newspaper, book or other document copies whereof have been declared to be forfeited to His Majesty under any other law for the time being in force, shall be punishable with imprisonment which may extend to six months, or with fine, or with both.

28. (1) Where any young person under the age of sixteen years is convicted by any Court of an offence under this Ordinance or of an offence which in the opinion of the Court has been committed in furtherance of a movement prejudicial to the public safety or peace, and such young person is sentenced to fine, the Court may order that the fine shall be paid by the parent or guardian of such young person as if it had been a fine imposed upon the parent or guardian:

Provided that no such order shall be made unless the parent or guardian has had an opportunity to appear before the Court and be heard.

(2) In any such case the Court may direct by its order that in default of payment of the fine by the parent or guardian, the parent or guardian shall suffer imprisonment as if the parent or guardian had himself been convicted of the offence for which the young person is convicted.

CHAPTER IV.

SPECIAL CRIMINAL COURTS.

29. Courts of criminal jurisdiction may be constituted under this Ordinance of the following classes, namely:—

- (i) Special Judges;
- (ii) Special Magistrates;
- (iii) Summary Courts.

30. The Local Government may appoint to be a Special Judge for such area as may think fit any officer who has acted for a period of not less than two years in the exercise of the powers of a Sessions Judge under the Code.

31. Subject to the provisions of section 47, a Special Judge shall try such offences as the Local Government, or an officer empowered by the Local Government in this behalf, may, by general or special order in writing, direct.

32. (1) A Special Judge may take cognizance of offences without the accused being committed to his Court for trial, and, in trying accused persons, shall follow the procedure prescribed by the Code for the trial of warrant cases by Magistrates:

Provided that a Special Judge may make a memorandum only of the substance of the evidence of each witness examined, and shall not be bound to adjourn any trial for any purpose unless such adjournment is, in his opinion, necessary in the interests of justice.

(2) In matters not coming within the scope of sub-section (1) the provisions of the Code, so far as they are not inconsistent with this Ordinance, shall apply to the proceedings of a Special Judge; and, for the

purposes of the said provisions, the Court of the Special Judge shall be deemed to be a Court of Session.

Sentences by Special
Judges.

33. A Special Judge may pass any sentence authorised by law.

IX of 1908. 34. (1) An appeal shall lie in the case of any sentence passed by a Special Judge of death or of transportation or imprisonment for a term of two years or more, and the provisions of the Code and of the Indian Limitation Act, 1908, shall apply in respect of such appeal as if it were an appeal under the Code from a sentence passed by a Court of Session exercising jurisdiction in the area in which the offence was committed.

(2) A sentence of death passed by a Special Judge shall be subject to confirmation in the manner provided in the Code for the confirmation of a sentence of death passed by a Court of Session.

35. Any Presidency Magistrate or Magistrate of the first class who has exercised powers as such for a period of not less than two years may be invested by the Local Government with the powers of a Special Magistrate under this Ordinance.

Jurisdiction of Special
Magistrates. 36. Subject to the provisions of section 47, a Special Magistrate shall try such offences, other than offences punishable with death, as the Local Government or an officer empowered by the Local Government in this behalf may, by general or special order in writing, direct.

Procedure of Special
Magistrates. 37. (1) In the trial of any case under this Ordinance, a Special Magistrate shall follow the procedure laid down in sub-section (1) of section 32 for the trial of cases by a Special Judge.

(2) In matters not coming within the scope of sub-section (1), the provisions of the Code, so far as they are not inconsistent with this Ordinance, shall apply to the proceedings of a Special Magistrate; and for the purposes of the said provisions the Special Magistrate shall be deemed to be a Magistrate of the first class.

Sentences by Special
Magistrates. 38. A Special Magistrate may pass any sentence authorised by law, except a sentence of death or of transportation or imprisonment exceeding seven years.

Appeals. 39. (1) Where a Special Magistrate passes a sentence of transportation or imprisonment for a term exceeding one year, or of fine exceeding one thousand rupees, an appeal shall lie to the Court of Session, unless the Special Magistrate passes a sentence of transportation exceeding one year or a sentence of imprisonment exceeding four years, in which case the appeal shall lie to the High Court.

(2) An appeal under sub-section (1) shall be presented within seven days from the date of the sentence.

Distribution of cases. 40. If any question arises whether, under any order made under section 31 or section 36, an offence is triable by a Special Judge or a Special Magistrate, the question shall be referred for decision to the Local Government, and its decision shall be final.

Summary Courts. 41. The Local Government may, by general or special order in writing, empower any Magistrate appointed under the provisions of the Code to exercise the powers of a Summary Court in any area specified in the order.

42. (1) Subject to the provisions of section 47, a Summary Court shall have power to try such offences as the District Magistrate may, by general or special order, direct:

Provided that no person shall be tried by a Summary Court for an offence not specified in sub-section (1) of section 280 of the Code which is punishable with imprisonment for a term exceeding two years.

(2) The District Magistrate may, by general or special order, give directions as to the distribution among the Summary Courts in his district of cases triable by them under sub-section (1).

43. In the trial of any case a Summary Court shall, as far as possible, follow the procedure laid down in the Code for the trial of warrant cases, and shall have all the powers conferred by the Code on a Magistrate:

Provided that the Court shall not be required to record more than a memorandum of the evidence or to frame a formal charge:

Provided further that, in the trial of any offence punishable with imprisonment for a term not exceeding one year, the Court may follow the procedure for the summary trial of cases in which an appeal lies laid down in Chapter XXII of the Code.

44. Summary Courts may pass any sentence which may be passed by a Magistrate of the first class.

45. (1) If a Summary Court in a case tried according to the procedure for the trial of warrant cases passes a sentence of imprisonment for a term exceeding three months or a fine exceeding two hundred rupees, or in a case tried by summary procedure passes a sentence of imprisonment for a term exceeding one month or a fine exceeding fifty rupees, an appeal shall lie to the Special Judge appointed for the area in which the offence was committed, or, if no Special Judge has been so appointed, to the Court of Session exercising jurisdiction in the area in which the offence was committed.

(2) An appeal under sub-section (1) shall be presented within seven days from the date of the sentence.

(3) In disposing of an appeal under this section, a Special Judge shall follow the same procedure and have the same powers as an Appellate Court follows and has under the Code.

46. (1) If a Summary Court is of opinion that the offence disclosed is one which it is not empowered to try, it shall send the case for trial to the Special Judge or Special Magistrate empowered to try the case under this Ordinance, or, if no such Court has been so empowered, to an ordinary criminal court having jurisdiction.

(2) If a Summary Court is of opinion that an offence which it is empowered to try should be tried by a Court of superior jurisdiction, or that it requires a punishment in excess of that which the Summary Court is empowered to inflict, it shall stay proceedings and report the case to the District Magistrate who may—

(a) direct that the case shall be tried by a Summary Court, or

(b) send it to a Court constituted under this Ordinance having jurisdiction or to an ordinary criminal court having jurisdiction, or

(c) report it for the orders of the Local Government.

47. (1) No Court constituted under this Ordinance shall try any offence unless it is an offence punishable under this Ordinance or was committed in furtherance of a movement prejudicial to the public safety or peace.

(2) The question whether or not an offence tried by a Court constituted under this Ordinance is of the nature described in sub-section (1) shall not be raised in any Court other than the Court trying the offence, and where such question is so raised then, if the Court is that of a Special Judge the question shall be referred to the Local Government, and if the Court is that of a Special Magistrate or is a Summary Court the question shall be referred to the District Magistrate, and the decision of the Local Government or District Magistrate shall be final.

48. (1) Where any accused, in a trial before a Court constituted under this Ordinance, has, by his voluntary act, rendered himself incapable of appearing before the Court, or resists his production before it, or behaves before it in a persistently disorderly manner, the Court may, at any stage of the trial, by order in writing made after such inquiry as it may think fit, dispense with the attendance of such accused for such period as it may think fit, and proceed with the trial in his absence.

Power of Special Courts to deal with refractory accused.

(2) Where a plea is required in answer to a charge from an accused whose attendance has been dispensed with under sub-section (1), such accused shall be deemed not to plead guilty.

(3) An order under sub-section (1) dispensing with the attendance of an accused shall not affect his right of being represented by a pleader at any stage of the trial, or of being present in person if he has become capable of appearing, or appears in Court and undertakes to behave in an orderly manner.

(4) Notwithstanding anything contained in the Code, no finding, sentence or order passed in a trial before a Court constituted under this Ordinance shall be held to be illegal by reason of any omission or irregularity whatsoever arising from the absence of any or all of the accused whose attendance has been dispensed with under sub-section (1).

1 of 1872.

49. Notwithstanding anything contained in the Indian Evidence Act, 1872, when the statement of any person has been recorded by any Magistrate, such statement may be admitted in evidence in any trial before a Court constituted under this Ordinance if such person is dead or cannot be found or is incapable of giving evidence, and the Court is of opinion that such death, disappearance or incapacity has been caused in the interests of the accused.

50. A Court constituted under this Ordinance shall not be required to grant an adjournment for the purpose of securing the attendance of a legal practitioner if, in the opinion of the Court, such adjournment would cause unreasonable delay in the disposal of the case.

Legal practitioners.

51. Notwithstanding the provisions of the Code, or of any other law for the time being in force, or of anything having the force of law by whatsoever authority made or done, there shall, save as provided by this Ordinance, be no appeal from any order or sentence of a Court constituted under this Ordinance, and, save as aforesaid, no Court shall have authority to revise such order or sentence, or to transfer any case from any such Court, or to make any order under section 491 of the Code, or have any jurisdiction of any kind in respect of any proceedings of any such Court.

Exclusion of interference of other Courts.

52. The provisions of the Code and of any other law for the time being in force, in so far as they may be applicable and in so far as they are not inconsistent with the provisions of this Ordinance or the rules made thereunder, shall apply to all matters connected with, arising from or consequent upon a trial by special criminal courts constituted under this Ordinance.

Application of ordinary law.

CHAPTER V.

ARBITRATION TRIBUNALS.

53. (1) Any person who has suffered any direct loss or damage by reason of action taken under section 5 or section 9 or sub-section (2) of section 11 or section 14 may, within two months from the date on which the action was taken, lodge a claim for compensation with the Local Government, or with such officer as the Local Government may appoint in this behalf.

(2) No claim for compensation may be lodged for loss or damage caused in any case where action has been taken under section 20.

(3) Any claim lodged under sub-section (1) may be investigated by such officer as the Local Government may appoint in this behalf, and any amount which may be agreed upon between the Local Government and the claimant shall be paid to him. If the amount is not agreed upon, the claim shall be decided by an Arbitration Tribunal, in the manner hereinafter provided.

54 (1) The Local Government may constitute an Arbitration Tribunal for the trial of any particular claim or claims, or of claims of a specified kind, or of claims arising within a specified area for which provision is not otherwise made.

(2) An Arbitration Tribunal shall consist of three persons, who are—

- (a) Commissioners; or
- (b) persons who have presided in a Civil Court of any grade for not less than five years; or
- (c) persons who are qualified under sub-section (3) of section 101 of the Government of India Act for appointment as Judges of a High Court; or
- (d) persons who have exercised the powers of a Magistrate of the first class for not less than five years; or
- (e) persons having special knowledge of matters such as those which may be in dispute.

(3) The Local Government shall appoint one of the members to be President of the Tribunal.

(4) If for any reason any member of an Arbitration Tribunal is unable to discharge his duties, the Local Government shall appoint another member in his place, and on any such change occurring it shall not be incumbent on the Tribunal to re-call or re-hear any witness who has already given evidence in regard to any claim before it, and may act on any evidence already recorded by or produced before it.

55. (1) Arbitration Tribunals may take evidence on oath (which such Tribunals are hereby empowered to administer), and shall have such powers to enforce the attendance of witnesses and the production of evidence as a Civil Court has under the Code of Civil Procedure, 1908.

V of 1908.

(2) In the event of any difference of opinion among the members of an Arbitration Tribunal, the opinion of the majority shall prevail.

(3) Subject to any rules which the Local Government may make in this behalf, the President of an Arbitration Tribunal may make orders consistent with this Ordinance to provide for the place and conduct of a trial and all other ancillary matters which he may think necessary for carrying into effect the provisions of this Ordinance.

56. In determining the compensation to be paid in respect of action taken under section 9 it shall not be necessary for an Arbitration Tribunal to have regard to the market price of the product, article or thing to which the claim relates, at the time of, or immediately prior to, such action; but the Tribunal shall have regard to the market price which prevailed in respect of products, articles or things of the like nature immediately before the promulgation of this Ordinance.

CHAPTER VI.

SUPPLEMENTAL.

57. (1) The Local Government may invest the District Magistrate with the powers of the Local Government under sub-section (1) of section 4, and may invest the District Magistrate or any Sub-divisional Magistrate, or any police officer not below the rank of Deputy Superintendent, with any of the powers of the Local Government under section 5 or section 9.

(2) The Local Government may invest any Sub-divisional Magistrate, or any police officer not below the rank of Deputy Superintendent, with any of the powers of a District Magistrate under Chapter II.

(3) The District Magistrate may by order in writing authorise any officer to exercise any of the powers of the District Magistrate under Chapter II in a specified area or in connection with a specified emergency.

58. Except as provided in this Ordinance, no proceeding or order purporting to be taken or made under this Ordinance shall be called in question by any Court, and no civil or criminal proceeding shall be instituted against any person for anything done, or in good faith intended to be done, under this Ordinance.

59. Nothing contained in this Ordinance shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence punishable under this Ordinance.

60. Notwithstanding anything contained in the Code, any offence punishable under this Ordinance shall be cognizable and non-bailable.

61. (1) Notwithstanding anything contained in the Code, an offence punishable under section 160, 186, 187, 188, 189, 227, 228, 295A, 298, 505, 506, 507 or 508 of the Indian Penal Code, or under section 17 of the Indian Criminal Law Amendment Act, 1908, shall be cognizable and non-bailable.

(2) Notwithstanding anything contained in section 195 or section 196 of the Code, any Court otherwise competent to take cognizance of an offence punishable under section 186, 187, 188, 228, 295A or 505 of the Indian Penal Code may take cognizance of such offence upon a police-report being made to it under clause (a) of sub-section (1) of section 173 of the Code, but shall not proceed with the trial unless it has received a complaint in respect of such offence under section 195 or section 196 as the case may be, and the absence of such complaint shall be reasonable cause, within the meaning of section 344 of the Code, for postponing the commencement of the trial and for remanding the accused.

WILLINGDON,

Viceroy and Governor General.

CALCUTTA;

The 24th December, 1931.

L. GRAHAM,

Secretary to the Government of India.

XLV of 1860.

XIV of 1908.

XLV of 1860.

ORDINANCE No. XIV of 1931.

AN

ORDINANCE.

TO

Provide against instigation to the illegal refusal of the payment of certain liabilities in the North-West Frontier Province.

WHEREAS an emergency has arisen which makes it necessary to provide against instigation to the illegal refusal of the payment of certain liabilities in the North-West Frontier Province;

NOW THEREFORE, in exercise of the power conferred by section 72 of the Government of India Act, the Governor General is pleased to make and promulgate the following Ordinance:—

1. (1) This Ordinance may be called the Unlawful Instigation (North-West Frontier Province) Ordinance, 1931.
Short title and extent.

(2) It extends to the whole of the North-West Frontier Province, except section 5, which extends to the whole of British India.

2. The Local Government may, by notification in the local official Gazette, declare that land-revenue or any sum recoverable as arrears of land-revenue, or any tax, rate, cess or other due or amount payable to Government, or to any local authority, or rent of agricultural land, or anything recoverable as arrears of or along with such rent, shall be a notified liability.
Power to declare notified liabilities.

3. Whoever, by words either spoken or written, or by signs or by visible representations, or otherwise, instigates, expressly or by implication, any person or class of persons not to pay or to defer payment of any notified liability,
Punishment for unlawful instigation to the non-payment of notified liability.

and whoever does any act, with intent or knowing it to be likely that any words, signs or visible representations containing such instigation shall thereby be communicated directly or indirectly to any person or class of persons, in any manner whatsoever,

shall be punishable with imprisonment which may extend to six months, or with fine, or with both.

4. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, an offence punishable under this Ordinance shall be cognizable and non-bailable.
Special rules of procedure.

(2) No Magistrate shall take cognizance of any offence punishable under this Ordinance except upon a report in writing of facts which constitute such offence made by a police officer not below the rank of sub-inspector.

5. So long as this Ordinance remains in force, in sub-section (1) of section 4 of the Indian Press (Emergency Powers) Act, 1931, the following clause shall be deemed to be added to clauses (a) and (b), namely:—
Temporary amendment of section 4, Act XXIII of 1931.

“or (bb) instigate, expressly or by implication, any person or class of persons not to pay or to defer payment of any liability, which has been declared by notification under section 2 of the Unlawful Instigation (North-West Frontier Province) Ordinance, 1931, to be a notified liability in that province,”
 and the provisions of the said Act shall apply accordingly.

6. (1) Any person to whom an arrear of a notified liability is due may apply in writing to the Collector to realise it, and the Collector may, after satisfying himself that the amount claimed is due, proceed to recover it as an arrear of land-revenue, in accordance with the law applicable to the recovery of arrears of land-revenue in the area concerned.

(2) Nothing in this section shall prevent any person to whom an arrear of a notified liability is due from recovering it in accordance with the law applicable to the recovery of such arrear.

(3) No proceeding or order purporting to be taken or made under this section shall be called in question by any Court, and no civil or criminal proceeding shall be instituted against any person for anything done, or in good faith intended to be done, under this section:

Provided that any person from whom an amount has been recovered under this section in excess of the amount due from him may recover such excess in accordance with the law from the person on whose behalf the Collector has realised it.

WILLINGDON,

Viceroy and Governor General.

CALCUTTA:

The 24th December, 1931.

L. GRAHAM,

Secy. to the Govt. of India

ORDINANCE No. XV of 1931.

AN

ORDINANCE

TO

Make further provision in the North-West Frontier Province against associations dangerous to the public peace.

WHEREAS an emergency has arisen which makes it expedient to make further provision in the North-West Frontier Province against associations dangerous to the public peace;

Now THEREFORE, in exercise of the power conferred by section 72 of the Government of India Act, the Governor General is pleased to make and promulgate the following Ordinance:—

1. (1) This Ordinance may be called the Unlawful Association (North-West Frontier Province) Ordinance, 1931.
Short title and extent.
- (2) It extends to the whole of the North-West Frontier Province.
2. In this Ordinance, unless there is anything repugnant in the subject or context,—
 - (a) "Magistrate" means the District Magistrate;
 - (b) "notified place" means a place notified under sub-section (1) of section 3;
 - (c) "place" includes also a house, building, tent and vessel; and
 - (d) "unlawful association" means an unlawful association within the meaning of section 15 of the Indian Criminal Law Amendment Act, 1908.

XIV of 1931.

3. (1) The Local Government may, by notification in the local official Gazette, notify any place which in its opinion is used for the purposes of an unlawful association.
Power to notify and take possession of places used for the purposes of an unlawful association.

(2) The Magistrate, or any officer authorised in this behalf in writing by the Magistrate, may thereupon take possession of the notified place and evict therefrom any person found therein, and shall forthwith make a report of the taking of possession to the Local Government.

(3) A notified place whereof possession is taken under sub-section (2) shall be deemed to remain in the possession of Government so long as the notification under sub-section (1) in respect thereof remains in force.

4. (1) The Magistrate or officer taking possession of a notified place shall also take possession of all moveable property found therein, and shall make a list thereof and submit it, with a report of the taking of possession of such moveable property, to the Local Government.

Moveable property
found in a notified place.

(2) If, in the opinion of the Local Government, any articles specified in the list are or may be used for the purposes of the unlawful association, the local Government may by order in writing declare such articles to be forfeited to His Majesty, and may give such directions for the disposal thereof as it may think fit.

(3) All articles specified in the list which are not so forfeited shall be deemed to remain in the possession of Government so long as the notified place in which they were found remains in the possession of Government, and such articles may be used in such manner as the Magistrate may direct.

5. Any person who enters or remains upon a notified place without the permission of the Magistrate, or of an officer authorised by him in this behalf, shall be deemed to commit criminal trespass, and, notwithstanding anything contained in the Code of Criminal Procedure, 1898, any such offence of criminal trespass shall be cognizable and non-bailable.

Trespass upon notified
places.

6. Before this Ordinance ceases to have effect, or before a notification under sub-section (1) of section 3 is cancelled, the Local Government shall give such general or special directions as it may deem requisite regulating the relinquishment by Government of possession of notified places and of moveable property found thereon which has not been forfeited to His Majesty.

The relinquishment of
property.

7. (1) Where the Local Government is satisfied, after such inquiry as it may think fit, that any monies, securities or credits are being used or are intended to be used for the purposes of an unlawful association, the Local Government may, by order in writing, declare such monies, securities or credits to be forfeited to His Majesty.

Power to forfeit funds
of an unlawful association.

(2) A copy of an order under sub-section (1) may be served on the person having custody of the monies, securities or credits, and on the service of such copy such person shall pay or deliver the monies, securities or credits to the order of the Local Government:

Provided that, in the case of monies or securities, a copy of the order may be endorsed for execution to such officer as the Local Government may select, and such officer shall have power to enter upon and search for such monies and securities in any premises where they may reasonably be suspected to be, and to seize the same.

(3) Where the Local Government has reason to believe that any person has custody of any monies, securities or credits which are being used or are intended to be used for the purposes of an unlawful association, the Local Government may, by order in writing, prohibit such person from paying, delivering, transferring or otherwise dealing in any manner whatsoever with the same, save in accordance with the written orders of the Local Government. A copy of such order shall be served upon the person to whom it is directed.

(4) The Local Government may endorse a copy of an order under sub-section (3) for investigation to any officer it may select, and such copy shall be warrant whereunder such officer may enter upon any premises of the person to whom the order is directed, examine the books of such person, search for monies and securities, and make inquiries from such person, or any officer, agent or servant of such person, touching the origin of and dealings in any monies, securities or credits which the investigating officer may suspect are being used or are intended to be used for the purposes of an unlawful association.

V of 1898.

(5) A copy of an order under this section may be served in the manner provided in the Code of Criminal Procedure, 1898, for the service of a summons, or, where the person to be served is a corporation, company, bank or association of persons, it may be served on any secretary, director or other officer or person concerned with the management thereof, or by leaving it or sending it by post addressed to the corporation, company, bank or association at its registered office, or, where there is no registered office, at the place where it carries on business.

(6) Where an order of forfeiture is made under sub-section (1) in respect of any monies, securities or credits in respect of which a prohibitory order has been made under sub-section (3), such order of forfeiture shall have effect from the date of the prohibitory order, and the person to whom the prohibitory order was directed shall pay or deliver the whole of the monies, securities or credits forfeited, to the order of the Local Government.

(7) Where any person liable under this section to pay or deliver any monies, securities or credits to the order of the Local Government refuses or fails to comply with any direction of the Local Government in this behalf, the Local Government may recover from such person, as arrears of land-revenue or as a fine, the amount of such monies or credits or the market value of such securities.

(8) In this section, "security" means a document whereby any person acknowledges that he is under a legal liability to pay money, or whereunder any person obtains a legal right to the payment of money; and the market value of any security means the value as fixed by any officer or person deputed by the Local Government in this behalf.

8. Every report of the taking of possession of property and every declaration of forfeiture, made or purporting to be made under this Ordinance, shall, as against all persons, be conclusive proof that the property specified therein has been taken possession of by Government or has been forfeited, as the case may be, and no proceeding purporting to be taken under this Ordinance shall be called in question by any Court, and no civil or criminal proceeding shall be instituted against any person for anything done or in good faith intended to be done under this Ordinance, or against Government or any person acting on behalf of or by authority of Government for any loss or damage caused to or in respect of any property whereof possession has been taken by Government under this Ordinance.

Jurisdiction barred.

V of 1898.

9. Notwithstanding anything contained in the Code of Criminal Procedure, 1898, all offences punishable under sub-section (1) of section 17 of the Indian Criminal Law Amendment Act, 1908, shall be cognizable and non-bailable.

XIV of 1908. All offences under Act XIV of 1908 to be cognizable and non-bailable.

CALCUTTA :

The 24th December, 1931.

WILLINGDON,

Viceroy and Governor General.

L. GRAHAM,

Secy. to the Govt. of India.

ORDINANCE No. II OF 1932.

AN

ORDINANCE

TO

Confer special powers on Government and its officer for the purpose of maintaining law and order.

WHEREAS an emergency has arisen which makes it necessary to confer special powers upon Government and its officers for the purpose of maintaining law and order;

NOW THEREFORE, in exercise of the power conferred by section 72 of the Government of India Act, the Governor General is pleased to make and promulgate the following Ordinance:—

CHAPTER I.

PRELIMINARY.

1. (1) This Ordinance may be called the Emergency Powers Ordinance,
Short title, extent and 1932.
commencement.

(2) This section and section 63 extend to the whole of British India, including British Baluchistan and the Sonthal Parganas, and the remaining provisions of this Ordinance shall extend only to such provinces or parts of provinces as the Governor General in Council may, by notification in the Gazette of India, specify.

(3) This section and section 63 shall come into force at once, and the Local Government may, by notification in the local official Gazette, direct that any or all of the remaining provisions shall come into force in any, area to which they have been extended, on such date as may be appointed in the notification.

2. In this Ordinance, unless there is anything repugnant in the subject definitions. or context,—

(1) "the Code" means the Code of Criminal Procedure, 1898; and v of 1898.

(2) "District Magistrate" means, in the case of a Presidency-town or the town of Rangoon, the Commissioner of Police.

CHAPTER II.

EMERGENCY POWERS.

3. (1) Any officer of Government authorised in this behalf by general or special order of the Local Government may, if satisfied that there are reasonable grounds for believing that any person has acted, is acting, or is about to act, in a manner prejudicial to the public safety or peace, arrest such person without warrant, and may, in so doing, use any means that may be necessary.

(2) An officer making an arrest under this section shall forthwith report the fact to the Local Government and may, by order in writing commit any person so arrested to such custody as the Local Government may, by general or special order, specify in this behalf:

Provided that no person shall, unless the Local Government by special order otherwise directs, be so detained in custody for a period exceeding fifteen days:

Provided further that no person shall be so detained in custody for a period exceeding two months.

4. (1) The Local Government, if satisfied that there are reasonable grounds for believing that any person has acted, is acting, or is about to act, in a manner prejudicial to the public safety or peace or in furtherance of a movement prejudicial to the public safety or peace, may, by order in writing, give any one or more of the following directions, namely, that such person—

Power to control suspected persons.

- (a) shall not enter, reside or remain in any area specified in the order;
- (b) shall reside or remain in any area specified in the order;
- (c) shall remove himself from, and shall not return to, any area specified in the order;
- (d) shall conduct himself in such manner, abstain from such acts, or take such order with any property in his possession or under his control, as may be specified in the order.

(2) An order made under sub-section (1) shall not, unless the Local Government by special order otherwise directs, remain in force for more than one month from the making thereof.

(3) An order made under sub-section (1) shall be served on the person to whom it relates in the manner provided in the Code for service of a summons.

5. (1) If, in the opinion of the Local Government, any land or building can be utilised as quarters or offices for public servants, or for the accommodation of troops or police, or for the purpose of giving effect to this Ordinance or any order made thereunder, or otherwise for the public advantage, the Local Government may, by order in writing, require the occupier or other person in charge of the land or building to place it at the disposal of Government at such time as may be specified in the order, together with the whole, or any part specified in the order, of any fixtures, fittings, furniture or other things for the time being in the building; and the Local Government may dispose of or use such land, building, fixtures fittings, furniture or other things in such manner as it may consider expedient.

(2) In this section "building" includes any portion or portions of a building whether separately occupied or not.

6. The District Magistrate may, by order in writing, prohibit or limit, in such way as he may think necessary for the public advantage, access to any building or place in the possession or under the control of Government or of any railway administration or local authority, or to any building or place in the occupation, whether permanent or otherwise, of His Majesty's Naval, Military or Air Forces or of any police force, or to any place in the vicinity of any such building or place.

Power to prohibit or limit access to certain places.

7. The District Magistrate may, by order in writing, prohibit or regulate, in such way as he may think necessary for the public advantage, traffic over any road, pathway, bridge, waterway or ferry.

Power to prohibit or regulate traffic.

8. (1) If, in the opinion of the Local Government, it is necessary for the public advantage to control the supply of any commodity of general use in any area to which this section applies, the Local Government may, by notification in the local official Gazette, make a declaration to that effect.

Power to control supply of commodity of general use.

(2) In any area to which a declaration under sub-section (1) extends, the Local Government may exercise all or any of the following powers in regard to the commodity to which the declaration relates, namely:—

- (a) it may, by general or special order in writing, require any trader to make a return in such form and within such time and to such

authority as may be specified in the order of the stocks of such commodity held by him or consigned to him or under order on his account; of any contracts for the supply to or by him of such commodity or for or in connection with the production or manufacture of such commodity, and of any other dealing by him therein; of the persons with whom and the prices at which any such contracts or other dealings were made or had or the prices at which such commodity has been bought or sold by him; of the cost of production of such commodity, so far as it may be known to him, and the profits usually made or expected by him on the sale thereof; and of any other matters specified in the order with respect to which, in the opinion of the Local Government, it is desirable to obtain information for the purpose of controlling the price of such commodity;

(b) it may, by notification in the local official Gazette, prescribe the conditions under which (including the maximum price at which and the persons by whom and to whom) such commodity may be sold; and such conditions may be general for the whole area or may vary as regards different localities therein, and different conditions may be prescribed for different classes of such commodity;

(c) it may, by order in writing, require a trader to place the whole or any portion of his stock, whether immediately available or not, at the disposal of the Local Government at such time and place and in such manner as may be specified in the order, on receiving payment therefor at the price or prices fixed under clause (b).

(3) In this section "trader" includes a manufacturer, producer, warehouse-keeper or vendor, and, in the case of a vendor a wholesale or retail vendor whether acting on his own behalf or on behalf of any other person, and, if not acting on his own behalf, the person on whose behalf he is acting.

9. If, in the opinion of the Local Government, any product, article or thing, or any class of product, article or thing, can be utilised for the public advantage, the Local Government may, by order in writing, require any owner or person in charge of such product, article or thing to place it at the disposal of Government at such time and place as may be specified in the order; and the Local Government may dispose of or use it in such manner as it may consider expedient.

10. (1) The District Magistrate may, by order in writing, require any person to make, in such form and within such time and to such authority as may be specified in the order, a return of any vehicles or means of transport owned by him or in his possession or under his control.

(2) The District Magistrate, if, in his opinion, it is necessary for the public advantage, may by order in writing, require any person owning or having in his possession or under his control any vehicle or means of transport to take such order therewith for such period as may be specified in the order.

11. (1) The District Magistrate may, by order in writing published in such manner as he thinks best adapted for informing the persons concerned,—

(a) prohibit, either absolutely or subject to such exception as may be specified in the order, the purchase, sale or delivery of, or other dealing in, any arms, parts of arms, ammunition or explosive substances; or

(b) direct that any person owning or having in his possession or under his control any arms, parts of arms, ammunition or explosive substances, shall keep the same in a secure place approved by the District Magistrate or remove them to any place specified in the order.

(2) The District Magistrate may take possession of—

(a) any arms, ammunition or explosives, or

(b) any tools, machinery, implements or other material of any kind, likely, in his opinion, to be utilised, whether by the owner or by any other person, for the purpose of causing unlawful hurt or damage to any person or to any property of Government or of any railway administration or of any local authority,

and may make such orders as he may think fit for the custody and disposal thereof.

12. Any officer of Government authorised in this behalf by general or special order of the Local Government may, within any area specified in such order, appoint persons as special police officers; and any person so appointed shall be deemed to have been appointed as a special police officer in accordance with the provisions of any enactment relating to the appointment of special police officers in force in that area.

13. Any officer of Government authorised in this behalf by general or special order of the Local Government may, within any area specified in such order, require any landholder, village headman, lambardar, inamdar or jagirdar, or any officer or servant of any local authority, or any teacher in any school, college or other educational institution to assist in the restoration and maintenance of law and order and in the protection of property in the possession or under the control of Government or of any railway administration or local authority in such manner and within such limits as the officer so authorised may specify.

14. If, in the opinion of the Local Government, it is necessary for the public advantage to secure the continuance of any public utility service, as defined in section 2 of the Trade Disputes Act, 1929, other than a public utility service owned by Government, the Local Government may—

(a) by order in writing, require the owner or person in charge of the utility service or of any thing ancillary hereto, or the person in control of any establishment ancillary thereto, to take or abstain from such action in respect of the supply of such service as may be specified in the order; or

(b) after giving notice in writing to the owner or person in charge of the utility service or of any thing ancillary thereto or to the person in control of any establishment ancillary thereto or, if such owner or person has disobeyed, or neglected to comply with, an order made under clause (a), without such notice, assume control of such service, thing or establishment, and, take such order therewith as may, in the opinion of the Local Government, be necessary to secure the continuance of such service.

15. The District Magistrate, if, in his opinion, it is necessary for the public advantage, may, in consultation with the chief postal authority in the district, control the operation of any post, telegraph, telephone or wireless office or station and, in particular, may intercept any postal article or telegraphic, telephonic or wireless message in the course of transmission, may ascertain its contents and may prohibit its further transmission.

16. The District Magistrate may—

Power to regulate the
use of railways and
vessels.

- (a) require accommodation to be provided on any railway train or any vessel for any passengers or goods, and, for this purpose, exclude from such train or vessel any passengers or goods which it is already carrying or about to carry;
- (b) require that any specified persons or classes of persons or persons proposing to travel to specified destinations, or any specified goods or classes of goods or goods consigned to specified destinations, shall not be carried on any railway or vessel;
- (c) exclude or eject any passenger from any train or vessel;
- (d) stop, or prohibit the stopping of, trains or vessels at any station;
or
- (e) in consultation with the local railway authorities, require special trains to be provided for the conveyance of troops, police or other persons.

17. The District Magistrate may, by order in writing, depute one or more police officers, not below the rank of head

Power to secure reports
of public meetings.

constable, or other persons, to attend any public meeting for the purpose of causing a report to be made of the proceedings, and may, by such order, authorise the persons so deputed to take with them an escort of police officers.

Explanation.—For the purposes of this section a public meeting is any meeting which is open to the public or to any class or portion of the public, and a meeting may be a public meeting notwithstanding that it is held in a private place and notwithstanding that admission thereto is restricted by ticket or otherwise.

18. The power to issue search-warrants conferred by section 98 of the

Power to issue search-
warrants.

Code shall be deemed to include a power to issue warrants authorising—

- (a) the search of any place in which any Magistrate mentioned in that section has reason to believe that any offence under this Ordinance or any act prejudicial to the public safety or peace has been, is being or is about to be committed, or that preparation for the commission of any such offence or act is being made;
- (b) the seizure in or on any place searched under clause (a) of anything which the officer executing the warrant has reason to believe is being used, or is intended to be used, for any purpose mentioned in that clause;

and the provisions of the Code shall, so far as may be, apply to searches made under the authority of any warrant issued, and to the disposal of any property seized, under this section.

19. Any authority on which any power is conferred by or under this Chapter may, by general or special order, authorise

General power of search.

any person to enter and search any place the search of which such authority has reason to believe to be necessary for the purpose of—

- (a) ascertaining whether it is necessary or expedient to exercise such power; or

(b) ascertaining whether any order given, direction made, or condition prescribed in the exercise of such power has been duly complied with; or

(c) generally, giving effect to such, power or securing compliance with, or giving effect to, any order given, direction made or condition prescribed in the exercise of such power.

20. If any person disobeys or neglects to comply with an order made, direction given, or condition prescribed, in accordance with the provisions of this Chapter, the authority which made the order, gave the direction or prescribed the condition may take or cause to be taken such action as it thinks necessary to give effect thereto.

CHAPTER III.

PENALTIES.

21. Whoever disobeys or neglects to comply with any order made or direction given in accordance with the provisions of section 4 shall be punishable with imprisonment which may extend to two years, or with fine, or with both.

22. Subject to the provisions of section 21, whoever disobeys or neglects to comply with any order made, direction given, or condition prescribed in accordance with the provisions of Chapter II, or impedes the lawful exercise of any power referred to in that Chapter, shall be punishable with imprisonment which may extend to six months, or with fine, or with both.

23. Whoever induces or attempts to induce any public servant or any servant of a local authority or any railway servant to disregard or fail in his duty as such servant shall be punishable with imprisonment which may extend to one year, or with fine, or with both.

24. Whoever dissuades or attempts to dissuade any person from entering the military or police service of His Majesty shall be punishable with imprisonment which may extend to one year, or with fine, or with both.

25. Whoever by words, whether spoken or written, or by signs or by visible or audible representations or otherwise publishes any statement, rumour or report which is false and which he has no reasonable ground to believe to be true, with intent to cause or which is likely to cause fear or alarm to the public or to any section of the public, or hatred or contempt towards any public servant, or any class of His Majesty's subjects, shall be punishable with imprisonment which may extend to one year, or with fine, or with both.

26. (1) Where it appears to the Local Government that the inhabitants of any area are concerned in the commission of offences or other acts which are prejudicial to the maintenance of law and order or to the public revenues, or are harbouring persons concerned in the commission of such offences or acts, the Local Government may, by notification in the local official Gazette, impose a collective fine on the inhabitants of that area.

(2) The Local Government may exempt any person or class or section of such inhabitants from liability to pay any portion of such fine.

(3) The District Magistrate, after such inquiry as he may deem necessary, shall apportion such fine among the inhabitants who are liable collectively to pay it, and such apportionment shall be made according to the District Magistrate's judgment of the respective means of such inhabitants.

(4) The portion of such fine payable by any person may be recovered from him as a fine or as arrears of land-revenue.

(5) The Local Government may award compensation out of the proceeds of a fine realised under this section to any person who, in the opinion of the Local Government, has suffered injury to person or property by the unlawful acts of the inhabitants of the area.

Explanation.—For the purposes of this section, the “inhabitants” of an area includes persons who themselves or by their agents or servants occupy or hold land or other immoveable property within such area, and landlords who themselves or by their agents or servants collect rents from holders or occupiers of land in such area, notwithstanding that they do not actually reside therein.

27. Whoever publishes, circulates or repeats in public any passage from a newspaper, book or other document copies whereof have been declared to be forfeited to His Majesty under any other law for the time being in force, shall be punishable with imprisonment which may extend to six months, or with fine, or with both.

28. (1) Where any young person under the age of sixteen years is convicted by any Court of an offence under this Ordinance or of an offence which in the opinion of the Court has been committed in furtherance of a movement prejudicial to the public safety or peace, and such young person is sentenced to fine, the Court may order that the fine shall be paid by the parent or guardian of such young person as if it had been a fine imposed upon the parent or guardian:

Provided that no such order shall be made unless the parent or guardian has had an opportunity to appear before the Court and be heard.

(2) In any such case the Court may direct by its order that in default of payment of the fine by the parent or guardian, the parent or guardian shall suffer imprisonment as if the parent or guardian had himself been convicted of the offence for which the young person is convicted.

CHAPTER IV.

SPECIAL CRIMINAL COURTS.

29. Courts of criminal jurisdiction may be constituted under this Ordinance of the following classes, namely:—

(i) Special Judges;

(ii) Special Magistrates;

(iii) Summary Courts.

30. The Local Government may appoint to be a Special Judge for such area as it may think fit any officer who has acted for a period of not less than two years in the exercise of the powers of a Sessions Judge under the Code.

31. Subject to the provisions of section 47, a Special Judge shall try such offences as the Local Government, or an officer empowered by the Local Government in this behalf, may, by general or special order in writing, direct.

32. (1) A Special Judge may take cognizance of offences without the Procedure of Special Judges. accused being committed to his Court for trial, and, in trying accused persons, shall follow the procedure prescribed by the Code for the trial of warrant cases by Magistrates:

Provided that a Special Judge may make a memorandum only of the substance of the evidence of each witness examined, and shall not be bound to adjourn any trial for any purpose unless such adjournment is, in his opinion, necessary in the interests of justice.

(2) In matters not coming within the scope of sub-section (1), the provisions of the Code, so far as they are not inconsistent with this Ordinance shall apply to the proceedings of a Special Judge; and, for the purposes of the said provisions, the Court of the Special Judge shall be deemed to be a Court of Session.

33. A Special Judge may pass any sentence authorised by law.

Sentence by Special Judges.

34. (1) An appeal shall lie in the case of any sentence passed by a Special Judge of death or of transportation or imprisonment for a term of two years or more, and the provisions of the Code and of the Indian Limitation Act, 1908, shall apply in respect of such appeal as if it were an appeal under the Code from a sentence passed by a Court of Session exercising jurisdiction in the area in which the offence was committed.

IX of 1908.

(2) A sentence of death passed by a Special Judge shall be subject to confirmation in the manner provided in the Code for the confirmation of a sentence of death passed by a Court of Session.

35. Any Presidency Magistrate or Magistrate of the first class who has exercised powers as such for a period of not less than two years may be invested by the Local Government with the powers of a Special Magistrate under this Ordinance.

Special Magistrates.

36. Subject to the provisions of section 47, a Special Magistrate shall try such offences, other than offences punishable with death, as the Local Government or an officer empowered by the Local Government in this behalf may, by general or special order in writing, direct.

37. (1) In the trial of any case under this Ordinance, a Special Magistrate shall follow the procedure laid down in sub-section (1) of section 32 for the trial of cases by a Special Judge.

Procedure of Special Magistrates.

(2) In matters not coming within the scope of sub-section (1), the provisions of the Code, so far as they are not inconsistent with this Ordinance, shall apply to the proceedings of a Special Magistrate; and for the purposes of the said provisions the Special Magistrate shall be deemed to be a Magistrate of the first class.

38. A Special Magistrate may pass any sentence authorised by law, except a sentence of death or of transportation or imprisonment exceeding seven years.

Sentence by Special Magistrates.

39. (1) Where a Special Magistrate passes a sentence of transportation or imprisonment for a term exceeding one year, or of fine exceeding one thousand rupees, an appeal shall lie to the Court of Session, unless the Special Magistrate passes a sentence of transportation exceeding one year or a sentence of imprisonment exceeding four years, in which case the appeal shall lie to the High Court.

Appeals.

(2) An appeal under sub-section (1) shall be presented within seven days from the date of the sentence.

40. If any question arises whether, under any order made under section 31 or section 36, an offence is triable by a Special Judge or a Special Magistrate, the question shall be referred for decision to the Local Government, and its decision shall be final.

41. The Local Government may, by general or special order in writing, empower any Magistrate appointed under the provisions of the Code to exercise the powers of a Summary Court in any area specified in the order.

42. (1) Subject to the provisions of section 47, a Summary of Court shall have power to try such offences as the District Magistrate may, by general or special order, direct:

Provided that no person shall be tried by a Summary Court for an offence not specified in sub-section (1) of section 260 of the Code which is punishable with imprisonment for a term exceeding two years.

(2) The District Magistrate may, by general or special order, give directions as to the distribution among the Summary Courts in his district of cases triable by them under sub-section (1).

43. In the trial of any case a Summary Court shall, as far as possible, follow the procedure laid down in the Code for the trial of warrant cases, and shall have all the power conferred by the Code on a Magistrate:

Provided that the Court shall not be required to record more than a memorandum of the evidence or to frame a formal charge:

Provided further that, in the trial of any offence punishable with imprisonment for a term not exceeding one year, the Court may follow the procedure for the summary trial of cases in which an appeal lies laid down in Chapter XXII of the Code.

44. Summary Courts may pass any sentence which may be passed by a Magistrate of the first class.

45. (1) If a summary Court in a case tried according to the procedure for the trial of warrant cases passes a sentence of imprisonment for a term exceeding three months or a fine exceeding two hundred rupees, or in a case tried by summary procedure passes a sentence of imprisonment for a term exceeding one month or a fine exceeding fifty rupees, an appeal shall lie to the Special Judge appointed for the area in which the offence was committed, or, if no Special Judge has been so appointed, to the Court of Session exercising jurisdiction in the area in which the offence was tried.

(2) An appeal under sub-section (1) shall be presented within seven days from the date of the sentence.

(3) In disposing of an appeal under this section, a Special Judge shall follow the same procedure and have the same powers as an Appellate Court follows and has under the Code.

46. (1) If a Summary Court is of opinion that the offence disclosed is one which it is not empowered to try, it shall send the case for trial to the Special Judge or Special Magistrate empowered to try the case under this Ordinance, or, if no such Court has been so empowered, to an ordinary criminal court having jurisdiction.

(2) If a Summary Court is of opinion that an offence which it is empowered to try should be tried by a Court of superior jurisdiction, or that it requires a punishment in excess of that which the Summary Court

is empowered to inflict, it shall stay proceedings and report the case to the District Magistrate who may—

- (a) direct that the case shall be tried by a Summary Court, or
- (b) send it to a Court constituted under this Ordinance having jurisdiction, or to an ordinary criminal court having jurisdiction, or
- (c) report it for the orders of the Local Government.

47. (1) No Court constituted under this Ordinance shall try any offence ^{Limitation of jurisdiction of Special Courts.} unless it is an offence punishable under this Ordinance or was committed in furtherance of a movement prejudicial to the public safety or peace.

(2) The question whether or not an offence tried by a Court constituted under this Ordinance is of the nature described in sub-section (1) shall not be raised in any Court other than the Court trying the offence, and where such question is so raised then, if the Court is that of a Special Judge the question shall be referred to the Local Government, and if the Court is that of a Special Magistrate or is a Summary Court the question shall be referred to the District Magistrate, and the decision of the Local Government or District Magistrate shall be final.

48. (1) Where any accused, in a trial before a Court constituted under ^{Powers of Special Courts to deal with refractory accused.} this Ordinance, has, by his voluntary act, rendered himself incapable of appearing before the Court, or resists his production before it, or behaves before it in a persistently disorderly manner, the Court may, at any stage of the trial, by order in writing made after such enquiry as it may think fit, dispense with the attendance of such accused for such period as it may think fit, and proceed with the trial in his absence.

(2) Where a place is required in answer to a charge from an accused whose attendance has been dispensed with under sub-section (1), such accused shall be deemed not to plead guilty.

(3) An order under sub-section (1) dispensing with the attendance of an accused shall not affect his right of being represented by a pleader at any stage of the trial, or of being present in person if he has become capable of appearing, or appears in Court and undertakes to behave in an orderly manner.

(4) Notwithstanding anything contained in the Code, no finding, sentence or order passed in a trial before a court constituted under this Ordinance shall be held to be illegal by reason of any omission or irregularity whatsoever arising from the absence of any or all of the accused whose attendance has been dispensed with under sub-section (1).

49. Notwithstanding anything contained in the Indian Evidence Act, 1872, when the statement of any person has been ^{Special rule of evidence.} recorded by any Magistrate, such statement may be admitted in evidence in any trial before a Court constituted under this Ordinance if such person is dead or cannot be found or is incapable of giving evidence, and the Court is of opinion that such death, disappearance or incapacity has been caused in the interests of the accused.

50. A Court constituted under this Ordinance shall not be required to ^{Legal practitioners.} grant an adjournment for the purpose of securing the attendance of a legal practitioner if, in the opinion of the Court, such adjournment would cause unreasonable delay in the disposal of the case.

51. Notwithstanding the provisions of the Code, or of any other law ^{Exclusion of interference of other Courts.} for the time being in force, or of anything having the force of law by whatsoever authority made or done, there shall, save as provided by this Ordinance, be no appeal from any order or sentence of a Court constituted under this

Ordinance, and, save as aforesaid, no Court shall have authority to revise such order or sentence, or to transfer any case from any such Court, or to make any order under section 491 of the Code, or have any jurisdiction of any kind in respect of any proceedings of any such Court.

52. The provisions of the Code and of any other law for the time being in force, in so far as they may be applicable and in so far as they are not inconsistent with the provisions of this Ordinance shall apply to all matters connected with, arising from or consequent upon a trial by special criminal courts constituted under this Ordinance.

CHAPTER V.

ARBITRATION TRIBUNALS.

53. (1) Any person who has suffered any direct loss or damage by reason of action taken under section 5 or section 9 or sub-section (2) of section 11 or section 14 may, within two months from the date on which the action was taken, lodge a claim for compensation with the Local Government, or with such officer as the Local Government may appoint in this behalf.

(2) No claim for compensation may be lodged for loss or damage caused in any case where action has been taken under section 20.

(3) Any claim lodged under sub-section (1) may be investigated by such officer as the Local Government may appoint in this behalf, and any amount which may be agreed upon between the Local Government and the claimant shall be paid to him. If the amount is not agreed upon, the claim shall be decided by an Arbitration Tribunal, in the manner hereinafter provided.

54. (1) The Local Government may constitute an Arbitration Tribunal for the trial of any particular claim of claims, or of claims of a specified kind, or of claims arising within a specified area for which provision is not otherwise made.

(2) An Arbitration Tribunal shall consist of three persons, who are—

- (a) Commissioners; or
- (b) persons who have presided in a Civil Court of any grade for not less than five years; or
- (c) persons who are qualified under sub-section (3) of section 101 of the Government of India Act for appointment as Judges of a High Court; or
- (d) persons who have exercised the powers of a Magistrate of the first class for not less than five years; or
- (e) persons having special knowledge of matters such as those which may be in dispute.

(3) The Local Government shall appoint one of the members to be President of the Tribunal.

(4) If for any reason any member of an Arbitration Tribunal is unable to discharge his duties, the Local Government shall appoint another member in his place, and on any such change occurring it shall not be incumbent on the Tribunal to recall or re-hear any witness who has already given evidence in regard to any claim before it, and may act on any evidence already recorded by or produced before it.

55. (1) Arbitration Tribunals may take evidence on oath (which such Tribunals are hereby empowered to administer), and shall have such powers to enforce the attendance of witnesses and the productions of evidence as a Civil Court has under the Code of Civil Procedure, 1908.

(2) In the event of any difference of opinion among the members of an Arbitration Tribunal, the opinion of the majority shall prevail.

(3) Subject to any rules which the Local Government may make in this behalf, the President of an Arbitration Tribunal may make orders consistent with this Ordinance to provide for the place and conduct of a trial and all other ancillary matters which he may think necessary for carrying into effect the provisions of this Ordinance.

56. In determining the compensation to be paid in respect of action taken under section 9 it shall not be necessary for an Arbitration Tribunal to have regard to the market price of the product, article or thing to which the claim relates, at the time of, or immediately prior to, such action; but the Tribunal shall have regard to the market price which prevailed in respect of products, articles or things of like nature immediately before the promulgation of this Ordinance.

Compensation not necessarily to be determined by current rates.

CHAPTER VI.

SUPPLEMENTAL.

57. (1) The Local Government may invest the District Magistrate with the powers of the Local Government under sub-section (1) of section 4, and may invest the District Magistrate or any Sub-divisional Magistrate, or any police officer not below the rank of Deputy Superintendent, with any of the powers of the Local Government under section 5 or section 9.

Delegation of powers.

(2) The Local Government may invest any Sub-divisional Magistrate, or any police officer not below the rank of Deputy Superintendent, with any of the powers of a District Magistrate under Chapter II.

(3) The District Magistrate may by order in writing authorise any officer to exercise any of the powers of the District Magistrate under Chapter II in a specified area or in connection with a specified emergency.

58. The Governor General in Council may exercise any of the powers of a Local Government under Chapter II.

Reserve power to Governor General in Council.

59. Except as provided in this Ordinance, no proceeding or order purporting to be taken or made under this Ordinance shall be called in question by any Court, and no civil or criminal proceeding shall be instituted against any person for anything done, or in good faith intended to be done, under this Ordinance.

Bar and justification.

60. Nothing contained in this Ordinance shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence punishable under this Ordinance.

Operation of other penal laws not barred.

61. Notwithstanding anything contained in the Code, any offence punishable under this Ordinance shall be cognizable and non-bailable.

Offences under the Ordinance to be cognizable and non-bailable.

62. (1) Notwithstanding anything contained in the Code, an offence punishable under section 160, 186, 187, 188, 189, 190, 227, 228, 295A, 298, 505, 506, 507 or 508 of the Indian Penal Code, shall be cognizable and non-bailable.

Certain other offences to be cognizable and non-bailable.

(2) Notwithstanding anything contained in section 195 or section 196 of the Code, any Court otherwise competent to take cognizance of an offence punishable under section 186, 187, 188, 228, 295A or 505 of the Indian Penal Code may take cognizance of such offence upon a police-report being made to it under clause (a) of sub-section (1) of section 173 of the Code, but shall not proceed with the trial unless it has received a complaint in respect of such offence under section 195 or section 196 as the case may be, and the absence of such complaint shall be reasonable cause, within the meaning of section 344 of the Code, for postponing the commencements of the trial and for remanding the accused.

63. So long as this Ordinance remains in force, in sub-section (1) of section 4 of the Indian Press (Emergency Powers) Act, 1931, the following clauses shall be deemed to be added to clauses (a) and (b), namely:—

- “(c) to seduce any officer, soldier, sailor or airman in the military, naval or air forces of His Majesty or any police-officer from his allegiance or his duty, or
- (d) to bring into hatred or contempt His Majesty or the Government established by law in British India or the administration of justice in British India or any Indian Prince or Chief under the suzerainty of His Majesty, or any class or section of His Majesty's subjects in British India or to excite disaffection towards His Majesty or the said Government or any such Prince or Chief, or
- (e) to put any person in fear or to cause annoyance to him and thereby induce him to deliver to any person any property or valuable security, or to do any act which he is not legally bound to do, or to omit to do any act which he is legally entitled to do, or
- (f) to encourage or incite any person to interfere with the administration of the law or with the maintenance of law and order, or to commit any offence, or to refuse or defer payment of any land-revenue, tax, rate, cess or other due or amount payable to Government or to any local authority, or any rent of agricultural land or anything recoverable as arrears of or along with such rent, or
- (g) to induce a public servant or a servant of a local authority to do any act or to forbear or delay to do any act connected with the exercise of his public functions or to resign his office, or
- (h) to promote feelings of enmity or hatred between different classes of His Majesty's subjects, or
- (i) to prejudice the recruiting of persons to serve in any of His Majesty's forces, or any police force, or to prejudice the training, discipline or administration of any such force.”

and the provisions of that Act shall apply accordingly.

WILLINGDON,

Viceroy and Governor-General.

NEW DELHI;

The 4th January, 1932.

ORDINANCE No. III of 1932.

AN ORDINANCE TO PROVIDE AGAINST INSTIGATION TO THE ILLEGAL REFUSAL OF THE PAYMENT OF CERTAIN LIABILITIES.

WHEREAS an emergency has arisen which makes it necessary to provide against instigation to the illegal refusal of the payment of certain liabilities;

NOW THEREFORE, in exercise of the power conferred by section 72 of the Government of India Act, the Governor-General is pleased to make and promulgate the following Ordinance:—

1. (1) This Ordinance may be called the Unlawful Instigation Ordinance, 1932.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

2. (1) The Governor-General in Council, may, by notification in the Gazette of India, empower any Local Government to make declarations under sub-sections (2) and (3).

(2) A Local Government empowered in this behalf may, by notification in the local official Gazette, declare that any part of the province or the whole province shall be a notified area for the purposes of this Ordinance.

(3) Such Local Government may further, by the same or by subsequent notification, declare that in such notified area land-revenue or any sum recoverable as arrears of land-revenue, or any tax, rate, cess or other due or amount payable to Government or to any local authority, or rent of agricultural land, or anything recoverable as arrears of or along with such rent, shall be a notified liability.

3. Whoever, by words either spoken or written, or by signs or by visible representations, or otherwise, instigates, expressly or by implication, any person or class of persons not to pay or to defer payment of any notified liability,

and whoever does any act, with intent or knowing it to be likely that any words, signs or visible representations containing such instigation shall thereby be communicated directly or indirectly to any person or class of persons, in any manner whatsoever.

shall be punishable with imprisonment which may extend to six months, or with fine, or with both.

4. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, an offence punishable under this Ordinance shall be cognizable and non-bailable.

(2) No Magistrate shall take cognizance of any offence punishable under this Ordinance except upon a report in writing of facts which constitute such offence made by a police officer not below the rank of sub-inspector.

5. (1) Any person to whom an arrear of a notified liability is due may apply in writing to the Collector to realise it, and the Collector may, after satisfying himself that the amount claimed is due, proceed to recover it as an arrear of land-revenue, in accordance with the law applicable to the recovery of arrears of land-revenue in the area concerned.

(2) Nothing in this section shall prevent any person to whom an arrear of a notified liability is due from recovering it in accordance with the law applicable to the recovery of such arrear.

(3) No proceeding or order purporting to be taken or made under this section shall be called in question by any Court, and no civil or criminal

proceeding shall be instituted against any person for anything done, or in good faith intended to be done, under this section :

Provided that any person from whom an amount has been recovered under this section in excess of the amount due from him may recover such excess in accordance with law from the person on whose behalf the Collector has realised it.

WILLINGDON,

Viceroy and Governor-General.

NEW DELHI ;

The 4th January, 1932.

ORDINANCE No. IV of 1932.

AN ORDINANCE TO MAKE FURTHER PROVISION AGAINST ASSOCIATIONS DANGEROUS TO THE PUBLIC PEACE.

WHEREAS an emergency has arisen which makes it expedient to make further provision against associations dangerous to the public peace ;

NOW THEREFORE, in exercise of the power conferred by section 72 of the Government of India Act, the Governor-General is pleased to make and promulgate the following Ordinance :—

1. (1) This Ordinance may be called the Unlawful Association Ordinance, 1932.
Short title, extent and commencement.

(2) This section, section 8 and section 10 extend to the whole of British India, including British Baluchistan and the Sonthal Parganas, and the remaining provisions of this Ordinance shall extend only to such provinces or parts of provinces as the Governor-General in Council may, by notification in the Gazette of India, specify.

(3) This section, section 8 and section 10 shall come into force at once, and the Local Government may, by notification in the local official Gazette, direct that any or all of the remaining provisions shall come into force in any area to which they have been extended on such date as may be appointed in the notification.

2. In this Ordinance, unless there is anything repugnant in the subject Definitions, or context,—

(a) “Magistrate” means, in a Presidency-town, the Chief Presidency Magistrate, and elsewhere the District Magistrate ;

(b) “notified place” means a place notified under sub-section (1) of section 3 ;

(c) “place” includes also a house, building, tent and vessel ; and

(d) “unlawful association” means an unlawful association within the meaning of section 15 of the Indian Criminal Law Amendment Act, 1908, and includes an association which has been declared to be unlawful by the Governor-General in Council under the powers conferred by section 8 of this Ordinance. XIV of 1908.

3. (1) The Local Government may, by notification in the local official Gazette, notify any place which in its opinion is used for the purposes of an unlawful association. Power to notify and take possession of places used for the purposes of an unlawful association.

(2) The Magistrate, or any officer authorised in this behalf in writing by the Magistrate, may thereupon take possession of the notified place and evict therefrom any person found therein, and shall forthwith make a report of the taking of possession to the Local Government.

(3) A notified place whereof possession is taken under sub-section (2) shall be deemed to remain in the possession of Government so long as the notification under sub-section (1) in respect thereof remains in force.

4. (1) The Magistrate or officer taking possession of a notified place shall also take possession of all movable property found therein, and shall make a list thereof and submit it, with a report of the taking of possession of such movable property, to the Local Government.

(2) If, in the opinion of the Local Government, any articles specified in the list are or may be used for the purposes of the unlawful association, the Local Government may, by order in writing, declare such articles to be forfeited to His Majesty, and may give such directions for the disposal thereof as it may think fit.

(3) All articles specified in the list which are not so forfeited shall be deemed to remain in the possession of Government so long as the notified place in which they were found remains in the possession of Government, and such articles may be used in such manner as the Magistrate may direct.

5. Any person who enters or remains upon a notified place without the permission of the Magistrate, or of an officer authorised by him in this behalf, shall be deemed to commit criminal trespass, and, notwithstanding anything contained in the Code of Criminal Procedure, 1898, any such offence of criminal trespass shall be cognizable and non-bailable.

6. Before this Ordinance ceases to have effect, or before a notification under sub-section (1) of section 3 is cancelled, the Local Government shall give such general or special directions as it may deem requisite regulating the relinquishment by Government of possession of notified places and of movable property found thereon which has not been forfeited to His Majesty.

7. (1) Where the Local Government is satisfied, after such inquiry as it may think fit, that any monies, securities or credits are being used or are intended to be used for the purposes of an unlawful association, the Local Government may, by order in writing, declare such monies, securities or credits to be forfeited to His Majesty.

(2) A copy of an order under sub-section (1) may be served on the person having custody of the monies, securities or credits, and on the service of such copy such person shall pay or deliver the monies, securities or credits to the order of the Local Government:

Provided that, in the case of monies or securities, a copy of the order may be endorsed for execution to such officer as the Local Government may select, and such officer shall have power to enter upon and search for such monies and securities in any premises where they may reasonably be suspected to be, and to seize the same.

(3) Where the Local Government has reason to believe that any person has custody of any monies, securities, or credits which are being used or are intended to be used for the purposes of an unlawful association, the Local Government may, by order in writing, prohibit such person from paying, delivering, transferring or otherwise dealing in any manner whatsoever with the same, save in accordance with the written orders of the Local Government. A copy of such order shall be served upon the person to whom it is directed.

(4) The Local Government may endorse a copy of an order under sub-section (3) for investigation to any officer it may select, and such copy shall be warrant whereunder such officer may enter upon any premises of the person to whom the order is directed, examine the books of such person, search for monies and securities, and make inquiries from such person, or any officer, agent or servant of such person, touching the origin of and dealings in any monies, securities or credits which the investigating officer

may suspect are being used or are intended to be used for the purposes of an unlawful association.

(5) A copy of an order under this section may be served in the manner provided in the Code of Criminal Procedure, 1898, for the service of a summons, or, where the person to be served is a corporation, company, bank or association of persons, it may be served on any secretary, director or other officer or person concerned with the management thereof, or by leaving it or sending it by post addressed to the corporation, company, bank or association at its registered office, or, where there is no registered office, at the place where it carries on business. V of 1898.

(6) Where an order of forfeiture is made under sub-section (1) in respect of any monies, securities or credits in respect of which a prohibitory order has been made under sub-section (3), such order of forfeiture shall have effect from the date of the prohibitory order, and the person to whom the prohibitory order was directed shall pay or deliver the whole of the monies, securities or credits forfeited, to the order of the Local Government.

(7) Where any person liable under this section to pay or deliver any monies, securities or credits to the order of the Local Government refuses or fails to comply with any direction of the Local Government in this behalf, the Local Government may recover from such person, as arrears of land-revenue or as a fine, the amount of such monies or credits or the market value of such securities.

(8) In this section, "security" means a document whereby any person acknowledges that he is under a legal liability to pay money, or whereunder any person obtains a legal right to the payment of money; and the market value of any security means the value as fixed by any officer or person deputed by the Local Government in this behalf.

8. (1) If the Governor General in Council is of opinion that any association interferes with the administration of law and order, or that it constitutes a danger to the public peace, he may, by notification in the Gazette of India, declare such association to be unlawful.

(2) An association in respect of which such declaration has been made shall be an unlawful association for the purposes of the Indian Criminal Law Amendment Act, 1908, throughout the whole of British India. XIV of 1908.

9. Every report of the taking of possession of property and every declaration of forfeiture, made or purporting to be made under this Ordinance, shall, as against all persons, be conclusive proof that the property specified therein has been taken possession of by Government or has been forfeited, as the case may be, and no proceeding purporting to be taken under this Ordinance shall be called in question by any Court, and no civil or criminal proceeding shall be instituted against any person for anything done or in good faith intended to be done under this Ordinance, or against Government or any person acting on behalf of or by authority of Government for any loss or damage caused to or in respect of any property whereof possession has been taken by Government under this Ordinance.

10. Notwithstanding anything contained in the Code of Criminal Procedure, 1898, all offences punishable under sub-section (1) of section 17 of the Indian Criminal Law Amendment Act, 1908, shall be cognizable and non-bailable. V of 1898.
XIV of 1908.

All offences under Act XIV of 1908 to be cognizable and non-bailable.

WILLINGDON,

Viceroy and Governor-General.

NEW DELHI,

The 4th January, 1932.

ORDINANCE No. V of 1932.

AN ORDINANCE TO PROVIDE AGAINST CERTAIN FORMS OF MOLESTATION AND
BOYCOTTING.

WHEREAS an emergency has arisen which makes it necessary to provide against certain forms of molestation and boycotting;

Now THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, the Governor-General is pleased to make and promulgate the following Ordinance:—

1. (1) This Ordinance may be called the Prevention of Molestation and
Short title, extent and Boycotting Ordinance, 1932.
commencement.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

(3) This section, section 2 and Chapter IV shall come into force at once, and the Local Government of any province may, by notification in the local official Gazette, direct that any or all of the remaining provisions shall come into force in any area in such province on such date as may be appointed in the notification.

V of 1898.

2. In this Ordinance "the Code" means the Code of Criminal Procedure,
Definition. 1898.

CHAPTER I.

MOLESTATION.

3. For the purposes of this Chapter, a person is said to molest another
Definition of "molesta- person who,—
tion".

(a) with a view to cause such other person to abstain from doing or to do any act which such other person has a right to do or to abstain from doing, obstructs or uses violence to or intimidates such other person or anyone in whom such person is interested, or loiters at or near a house where such person or anyone in whom such person is interested resides or works or carries on business or happens to be, or persistently follows him from place to place, or interferes with any property owned or used by him or deprives him of or hinders him in the use thereof, or

(b) with a view to cause loss or knowing that loss is likely to be caused to such other person, loiters at or near the place where such person carries on business and dissuades or attempts to dissuade, by words or gestures or otherwise, any person from entering or approaching or dealing at such place.

4. Whoever molests or abets the molestation of any person shall be
Punishment for molesta- punishable with imprisonment which may extend to
tion. six months, or with fine, or with both.

5. Notwithstanding anything contained in the Code, an offence punish-
Special rules of pro- able under section 4 shall be cognizable and non-
cedure. bailable, and no Magistrate shall take cognizance
of any such offence except upon a report in writing
of facts which constitute such offence made by a police officer.

CHAPTER II.

BOYCOTTING.

6. For the purposes of this Chapter,—

(a) a person is said to "boycott" another person who refuses to deal or do business with, or to supply goods to, or to let a house or land to, or to render any customary service to such person or any person in whom such person is interested, or refuses to do so on the terms on which such things would be done in the ordinary course, or abstains from such professional or business relations as he would ordinarily maintain with such person; and

(b) a "public servant" includes a public servant as defined in section 21 of the Indian Penal Code, and a servant of a local authority, and a person belonging to any class of persons which the Local Government may, by notification in the local official Gazette, declare to be public servants for the purposes of this Chapter. XLV of 1860.

7. Whoever boycotts or abets the boycotting of a public servant, or threatens a public servant with boycotting, shall be punishable with imprisonment which may extend to six months, or with fine, or with both:

Provided that no person shall be convicted under this section if the Court is satisfied that his acts were not intended to prejudice the public servant boycotted, or proposed or threatened to be boycotted, in the discharge of the duties of his office, or to cause such public servant to terminate or withhold his services in the discharge of such duties, or to commit a breach of discipline.

8. (1) An offence punishable under section 7 shall be non-cognizable, and notwithstanding anything contained in the second Schedule to the Code, a case relating to such an offence shall, for the purposes of section 204 of the Code, be deemed to be one in which a warrant should issue in the first instance.

(2) Where information is given to the officer in charge of a police-station of the commission within the limits of such station of an offence punishable under section 7, he shall deal with it in the manner provided in section 154 of the Code, and, notwithstanding anything contained in sub-section (1) of section 155 of the Code, he shall investigate the case as if he had received an order from a competent Magistrate under sub-section (2) of that section.

CHAPTER III.

MOCK FUNERAL CEREMONIES.

9. Whoever with intent to annoy any person, or with the knowledge that annoyance is likely to be caused to any person, performs or takes part in or abets the performance of any mock ceremony resembling any ceremony associated with or consequent upon death shall be punishable with imprisonment which may extend to six months, or with fine, or with both.

10. Notwithstanding anything contained in the Code, an offence punishable under section 9 shall be cognizable and non-bailable.

CHAPTER II.

EMERGENCY POWERS.

3. (1) Any officer of Government authorised in this behalf by general or special order of the Local Government may, if satisfied that there are reasonable grounds for believing that any person has acted, is acting, or is about to act, in a manner prejudicial to the public safety or peace, himself arrest such person without warrant, or may direct the arrest without warrant of such person, and in making such arrest any means that may be necessary may be used.

Power to arrest and detain suspected persons.

(2) An arrest made by or on the direction of any officer under this section shall be reported forthwith to the Local Government by the officer so making or so directing the arrest as the case may be, and such officer may, by order in writing, commit any person so arrested to such custody as the Local Government may, by general or special order, specify in this behalf:

Provided that no person shall, unless the Local Government by special order otherwise directs, be so detained in custody for a period exceeding fifteen days:

Provided further that no person shall be so detained in custody for a period exceeding two months.

4. (1) The Local Government, if satisfied that there are reasonable grounds for believing that any person has acted, is acting, or is about to act, in a manner prejudicial to the public safety or peace or in furtherance of a movement prejudicial to the public safety or peace, may, by order in writing, give any one or more of the following directions, namely, that such person—

Power to control suspected persons.

- (a) shall not enter, reside or remain in any area specified in the order;
- (b) shall reside or remain in any area specified in the order;
- (c) shall remove himself from, and shall not return to, any area specified in the order;
- (d) shall conduct himself in such manner, abstain from such acts, or take such order with any property in his possession or under his control, as may be specified in the order.

(2) An order made under sub-section (1) shall not, unless the Local Government by special order otherwise directs, remain in force for more than one month from the making thereof.

(3) An order made under sub-section (1) shall be served on the person to whom it relates in the manner provided in the Code for service of a summons.

5. (1) If, in the opinion of the Local Government, any land or building can be utilised as quarters or offices for public servants, or for accommodation of troops or police, the Local Government may, by order in writing, require the occupier or other person in charge of the land or building to place it at the disposal of Government at such time as may be specified in the order, together with the whole, or any part specified in the order, of any fixtures, fittings, furniture or other things for the time being in the building; and the Local Government may dispose of or use such land, building, fixtures, fittings, furniture or other things in such manner as it may consider expedient.

Power to take possession of buildings.

(2) In this section "building" includes any portion or portions of a building whether separately occupied or not.

6. The District Magistrate may, by order in writing, prohibit or limit, in such way as he may think necessary for the public advantage, access to any building or place in the possession or under the control of Government or of any railway administration or local authority, or to any building or place in the occupation, whether permanent or otherwise, of His Majesty's Naval, Military or Air Forces or of any police force, or to any place in the vicinity of any such building or place.

7. The District Magistrate may, by order in writing, prohibit or regulate, in such way as he may think necessary for the public advantage, traffic over any road, pathway, bridge, waterway or ferry.

8. (1) The District Magistrate may, by order in writing, require any person to make, in such form and within such time and to such authority as may be specified in the order, a return of any vehicles or means of transport owned by him or in his possession or under his control.

(2) The District Magistrate, if, in his opinion, it is necessary for the public advantage, may, by order in writing, require any person owning or having in his possession or under his control any vehicle or means of transport to take such order therewith for such period as may be specified in the order.

9. (1) The District Magistrate may, by order in writing published in such manner as he thinks best adapted for informing the persons concerned,—

(a) prohibit, either absolutely or subject to such exception as may be specified in the order, the purchase, sale or delivery of, or other dealing in, any arms, parts of arms, ammunition or explosive substances; or

(b) direct that any person owning or having in his possession or under his control any arms, parts of arms, ammunition or explosive substances, shall keep the same in a secure place approved by the District Magistrate or remove them to any place specified in the order.

(2) The District Magistrate may take possession of—

(a) any arms, ammunition or explosives, or

(b) any tools, machinery, implements or other material of any kind, likely, in his opinion, to be utilised, whether by the owner or by any other person, for the purpose of causing unlawful hurt or damage to any person or to any property of Government or of any railway administration or of any local authority,

and may make such orders as he may think fit for the custody and disposal thereof.

10. Any officer of Government authorised in this behalf by general or special order of the Local Government may, within any area specified in such order, require any landholder, village headman, lambardar, inamdar or jagirdar, or any officer or servant of any local authority, or any teacher in any school, college or other educational institution to assist in the restoration and maintenance of law and order and in the protection of property in the possession or under the control of Government or of any railway administration or local authority in such manner and within such limits as the officer so authorised may specify.

11. The District Magistrate, if, in his opinion, it is necessary for the public advantage, may, in consultation with the chief postal authority in the district, control the operation of any post, telegraph, telephone or wireless office or station, and, in particular, may intercept any postal article or telegraphic, telephonic or wireless message in the course of transmission, may, ascertain its contents and may prohibit its further transmission.

12. The District Magistrate may—

Power to regulate the use of railways and vessels.

- (a) require accommodation to be provided on any railway train or any vessel for any passengers or goods, and, for this purpose, exclude from such train or vessel any passengers or goods which it is already carrying or about to carry;
- (b) require that any specified persons or classes of persons or persons proposing to travel to specified destinations, or any specified goods or classes of goods or goods consigned to specified destinations, shall not be carried on any railway or vessel;
- (c) exclude or eject any passenger from any train or vessel;
- (d) stop, or prohibit the stopping of, trains or vessels at any station; or
- (e) in consultation with the local railway authorities, require special trains to be provided for the conveyance of troops, police or other persons.

13. The District Magistrate may, by order in writing, depute one or more police officers not below the rank of head constable, or other persons, to attend any public meeting for the purpose of causing a report to be made of the proceedings, and may, by such order, authorise the persons so deputed to take with them an escort of police officers.

Explanation.—For the purposes of this section a public meeting is any meeting which is open to the public or to any class or portion of the public, and a meeting may be a public meeting notwithstanding that it is held in a private place and notwithstanding that admission thereto is restricted by ticket or otherwise.

14. The power to issue search-warrants conferred by section 98 of the Code shall be deemed to include a power to issue warrants authorising—

- (a) the search of any place in which any Magistrate mentioned in that section has reason to believe that any offence under this Ordinance or any act prejudicial to the public safety or peace has been, is being or is about to be committed, or that preparation for the commission of any such offence or act is being made;
- (b) the seizure in or on any place searched under clause (a) of anything which the officer executing the warrant has reason to believe is being used, or is intended to be used, for any purpose mentioned in that clause;

and the provisions of the Code shall, so far as may be, apply to searches made under the authority of any warrant issued, and to the disposal of any property seized, under this section.

15. Any authority on which any power is conferred by or under this Chapter may, by general or special order, authorise any person to enter and search any place the search

General power of search.

of which such authority has reason to believe to be necessary for the purpose of—

- (a) ascertaining whether it is necessary or expedient to exercise such power; or
- (b) ascertaining whether any order given, direction made, or condition prescribed in the exercise of such power has been duly complied with; or
- (c) generally, giving effect to such power or securing compliance with, or giving effect to, any order given, direction made or condition prescribed in the exercise of such power.

16. If any person disobeys or neglects to comply with an order made, direction given, or condition prescribed, in accordance with the provisions of this Chapter, the authority which made the order, gave the direction or prescribed the condition may take or cause to be taken such action as it thinks necessary to give effect thereto.

17. Whoever disobeys or neglects to comply with any order made or direction given in accordance with the provisions of section 4 shall be punishable with imprisonment which may extend to two years, or with fine, or with both.

18. Subject to the provisions of section 17, whoever disobeys, or neglects to comply with any order made, direction given, or condition prescribed in accordance with the provisions of this Chapter or impedes the lawful exercise of any power referred to in this Chapter shall be punishable with imprisonment which may extend to six months, or with fine, or with both.

19. (1) Any person who has suffered any direct loss or damage by reason of action taken under section 5 or sub-section (2) of section 9, may, within two months from the date on which the action was taken, lodge a claim for compensation with the Local Government, or with such officer as the Local Government may appoint in this behalf.

(2) No claim for compensation may be lodged for loss or damage caused in any case where action has been taken under section 13.

(3) Any claim lodged under sub-section (1) may be investigated by such officer as the Local Government may appoint in this behalf, and any amount which may be agreed upon between the Local Government and the claimant shall be paid to him. If the amount is not agreed upon, the claim shall be decided by an Arbitration Tribunal, in the manner hereinafter provided.

20. (1) The Local Government may constitute an Arbitration Tribunal for the trial of any particular claim or claims, or of claims arising within a specified area for which provision is not otherwise made.

(2) An Arbitration Tribunal shall consist of three persons, who are—

- (a) Commissioners; or
- (b) persons who have presided in a Civil Court of any grade for not less than five years; or
- (c) persons who are qualified under sub-section (5) of section 101 of the Government of India Act for appointment as Judges of a High Court; or
- (d) persons who have exercised the powers of a Magistrate of the first class for not less than five years; or
- (e) persons having special knowledge of matters such as those which may be in dispute.

(3) The Local Government shall appoint one of the members to be President of the Tribunal.

(4) If for any reason any member of an Arbitration Tribunal is unable to discharge his duties, the Local Government shall appoint another member in his place, and on any such change occurring it shall not be incumbent on the Tribunal to re-call or re-hear any witness who has already given evidence in regard to any claim before it, and the Tribunal may act on any evidence already recorded by or produced before it.

21. (1) Arbitration Tribunals may take evidence on oath (which such Tribunals are hereby empowered to administer), and shall have such powers to enforce the attendance of witnesses and the production of evidence as a Civil Court has under the Code of Civil Procedure, 1908.

(2) In the event of any difference of opinion among the members of an Arbitration Tribunal, the opinion of the majority shall prevail.

(3) Subject to any rules which the Local Government may make in this behalf, the President of an Arbitration Tribunal may make orders consistent with this Chapter to provide for the place and conduct of a trial and all other ancillary matters which he may think necessary for carrying into effect the provisions of this Chapter.

22. (1) The Local Government may invest the District Magistrate with the powers of the Local Government under sub-section (1) of section 4, and may invest the District Magistrate or any Subdivisional Magistrate, or any police officer not below the rank of Deputy Superintendent, with any of the powers of the Local Government under section 5.

(2) The Local Government may invest any Subdivisional Magistrate, or any police officer not below the rank of Deputy Superintendent, with any of the powers of a District Magistrate under this Chapter.

(3) The District Magistrate may, by order in writing, authorise any officer to exercise any of the powers of the District Magistrate under this Chapter in a specified area or in connection with a specified emergency.

23. The Governor General in Council may exercise any of the powers of a Local Government under this Chapter.

Reserve power to Governor General in Council.

CHAPTER III.

OFFENCES AND PENALTIES.

24. Whoever induces or attempts to induce any public servant or any servant of a local authority or any railway servant to disregard or fail in his duty as such servant shall be punishable with imprisonment which may extend to one year, or with fine, or with both.

Tampering with public servants.

25. Whoever dissuades or attempts to dissuade any person from entering the military or police service of His Majesty shall be punishable with imprisonment which may extend to one year, or with fine, or with both.

Dissuasion from enlistment.

26. Whoever by words, whether spoken or written, or by signs or by visible or audible representations or otherwise publishes any statement, rumour or report which is false and which he has no reasonable ground to believe to be true, with intent to cause or which is likely to cause fear or alarm to the public or to any section of the public, or hatred or contempt towards any public servant, or any class of His Majesty's subjects, shall

Dissemination of false rumours.

be punishable with imprisonment which may extend to one year, or with fine, or with both.

27. (1) Where it appears to the Local Government that the inhabitants of any area are concerned in the commission of offences or other acts which are prejudicial to the maintenance of law and order or to the public revenues, or are harbouring persons concerned in the commission of such offences or acts, the Local Government may, by notification in the local official Gazette, impose a collective fine on the inhabitants of that area.

(2) The Local Government may exempt any person or class or section of such inhabitants from liability to pay any portion of such fine.

(3) The District Magistrate, after such inquiry as he may deem necessary, shall apportion such fine among the inhabitants who are liable collectively to pay it, and such apportionment shall be made according to the District Magistrate's judgment of the respective means of such inhabitants.

(4) The portion of such fine payable by any person may be recovered from him as a fine or as arrears of land-revenue.

(5) The Local Government may award compensation out of the proceeds of a fine realised under this section to any person who, in the opinion of the Local Government, has suffered injury to person or property by the unlawful acts of the inhabitants of the area.

Explanation.—For the purposes of this section, the "inhabitants" of an area includes persons who themselves or by their agents or servants occupy or hold land or other immovable property within such area, and landlords who themselves or by their agents or servants collect rents from holders or occupiers of land in such area, notwithstanding that they do not actually reside therein.

28. Whoever publishes, circulates or repeats in public any passage from a newspaper, book or other document copies whereof have been declared to be forfeited to His Majesty under any other law for the time being in force, shall be punishable with imprisonment which may extend to six months, or with fine, or with both.

29. (1) Where any young person under the age of sixteen years is convicted by any Court of an offence under this Ordinance or of an offence which in the opinion of the Court has been committed in furtherance of a movement prejudicial to the public safety or peace, and such young person is sentenced to fine, the Court may order that the fine shall be paid by the parent or guardian of such young person as if it had been a fine imposed upon the parent or guardian:

Provided that no such order shall be made unless the parent or guardian has had an opportunity to appear before the Court and be heard.

(2) In any such case the Court may direct by its order that in default of payment of the fine by the parent or guardian, the parent or guardian shall suffer imprisonment as if the parent or guardian had himself been convicted of the offence for which the young person is convicted.

CHAPTER IV.

SPECIAL CRIMINAL COURTS.

30. Courts of criminal jurisdiction may be constituted under this Ordinance of the following classes, namely:—

- (i) Special Judges;
- (ii) Special Magistrates;
- (iii) Summary Courts.

31. The Local Government may appoint to be a Special Judge for such
Special Judges. area as it may think fit any officer who has acted
for a period of not less than two years in the exercise of the powers of a Sessions Judge under the Code.

32. Subject to the provisions of section 48, a Special Judge shall try
Jurisdiction of Special Judges. such offences as the Local Government, or an officer empowered by the Local Government in this behalf, may, by general or special orders in writing, direct.

33. (1) A Special Judge may take cognizance of offences, without the
Procedure of Special Judges. accused being committed to his Court for trial and, in trying accused persons, shall follow the procedure prescribed by the Code for the trial of warrant cases by Magistrates:

Provided that a Special Judge may make a memorandum only of the substance of the evidence of each witness examined, and shall not be bound to adjourn any trial for any purpose unless such adjournment is, in his opinion, necessary in the interests of justice.

(2) In matters not coming within the scope of sub-section (1), the provisions of the Code, so far as they are not inconsistent with this Ordinance, shall apply to the proceedings of a Special Judge; and for the purposes of the said provisions, the Court of the Special Judge shall be deemed to be a Court of Session.

34. A Special Judge may pass any sentence authorised by law.
Sentences by Special Judges.

35. (1) An appeal shall lie in the case of any sentence passed by a Special Judge of death or of transportation or imprisonment for a term of two years or more, and the provisions of the Code and of the Indian Limitation Act, 1908, shall apply in respect of such appeal as if it were an appeal under the Code from a sentence passed by a Court of Session exercising jurisdiction in the area in which the offence was committed.

IX of 1908.

(2) A sentence of death passed by a Special Judge shall be subject to confirmation in the manner provided in the Code for the confirmation of a sentence of death passed by a Court of Session.

36. Any Presidency Magistrate or Magistrate of the first class who has
Special Magistrates. exercised powers as such for a period of not less than two years may be invested by the Local Government with the powers of a Special Magistrate under this Ordinance.

37. Subject to the provisions of section 48, a Special Magistrate shall
Jurisdiction of Special Magistrates. try such offences, other than offences punishable with death, as the Local Government or an officer empowered by the Local Government in this behalf may, by general or special order in writing, direct.

38. (1) In the trial of any case, a Special Magistrate shall follow the
Procedure of Special Magistrates. procedure laid down in sub-section (1) of section 33 for the trial of cases by a Special Judge.

(2) In matters not coming within the scope of sub-section (1), the provisions of the Code, so far as they are not inconsistent with this Ordinance, shall apply to the proceedings of a Special Magistrate; and for the purposes of the said provisions, the Special Magistrate shall be deemed to be a Magistrate of the first class.

39. A Special Magistrate may pass any sentence authorized by law, except a sentence of death or of transportation or imprisonment exceeding seven years.
Sentences by Special Magistrates.

40. (1) Where a Special Magistrate passes a sentence of transportation or imprisonment for a term exceeding one year, or of fine exceeding one thousand rupees, an appeal shall lie, where the case was tried in a Presidency-town to the High Court, and where the case was tried outside the Presidency-town to the Court of Session, unless the Special Magistrate passes a sentence of transportation exceeding one year or a sentence of imprisonment exceeding four years, in which case the appeal shall lie to the High Court.

(2) An appeal under sub-section (1) shall be presented within seven days from the date of the sentence.

41. If any question arises whether, under any order made under section 32 or section 37, an offence is triable by a Special Judge or a Special Magistrate, the question shall be referred for decision to the Local Government, and its decision shall be final.

42. The Local Government may, by general or special order in writing, empower any Magistrate appointed under the provisions of the Code to exercise the powers of a Summary Court in any area specified in the order.

43. (1) Subject to the provisions of section 48, a Summary Court shall have power to try such offences as the District Magistrate may, by general or special order, direct:

Provided that no person shall be tried by a Summary Court for an offence not specified in sub-section (1) of section 260 of the Code which is punishable with imprisonment for a term exceeding two years.

(2) The District Magistrate may, by general or special order, give directions as to the distribution among the Summary Courts in his district of cases triable by them under sub-section (1).

44. In the trial of any case a Summary Court shall, as far as possible, follow the procedure laid down in the Code for the trial of warrant cases, and shall have all the powers conferred by the Code on a Magistrate:

Provided that the Court shall not be required to record more than a memorandum of the evidence or to frame a formal charge:

Provided further that, in the trial of any offence punishable with imprisonment for a term not exceeding one year, the Court may follow the procedure for the summary trial of cases in which an appeal lies laid down in Chapter XXII of the Code.

45. Summary Courts may pass any sentence which may be passed by a Magistrate of the first class.

46. (1) If a Summary Court in a case tried according to the procedure for the trial of warrant cases passes a sentence of imprisonment for a term exceeding three months or a fine exceeding two hundred rupees, or in a case tried by summary procedure passes a sentence of imprisonment for a term exceeding one month or a fine exceeding fifty rupees, an appeal shall lie to the Special Judge appointed for the area in which the offence was committed, or, if no Special Judge has been so appointed, to the High Court or to the Court of Session according as the offence was tried in a Presidency-town or was tried outside the Presidency-towns.

(2) An appeal under sub-section (1) shall be presented within seven days from the date of the sentence.

(3) In disposing of an appeal under this section, a Special Judge shall follow the same procedure and have the same powers as an Appellate Court follows and has under the Code.

47. (1) If a Summary Court is of opinion that the offence disclosed is one which it is not empowered to try, it shall send the case for trial to the Special Judge or Special Magistrate empowered to try the case under this Ordinance or, if no such Court has been so empowered, to an ordinary criminal court having jurisdiction.

Procedure when Summary Court considers case triable by another Court.

(2) If a Summary Court is of opinion that an offence which it is empowered to try should be tried by a Court of superior jurisdiction, or that it requires a punishment in excess of that which the Summary Court is empowered to inflict, it shall stay proceedings and report the case to the District Magistrate who may—

(a) direct that the case shall be tried by a Summary Court, or

(b) send it to a Court constituted under this Ordinance having jurisdiction, or to an ordinary criminal court having jurisdiction, or

(c) report it for the orders of the Local Government.

48. (1) No Court constituted under this Ordinance shall try any offence unless it is an offence punishable under this Ordinance or was committed in furtherance of a movement prejudicial to the public safety or peace.

Limitation of jurisdiction of Special Courts.

(2) The question whether or not an offence tried by a Court constituted under this Ordinance is of the nature described in sub-section (1) shall not be raised in any Court other than the Court trying the offence, and where such question is so raised then, if the Court is that of a Special Judge the question shall be referred to the Local Government, and if the Court is that of a Special Magistrate or is a Summary Court the question shall be referred to the District Magistrate, and the decision of the Local Government or District Magistrate shall be final.

49. (1) Where any accused, in a trial before a Court constituted under this Ordinance has, by his voluntary act, rendered himself incapable of appearing before the Court, or resists his production before it or behaves before it in a persistently disorderly manner, the Court may, at any stage of the trial, by order in writing made after such inquiry as it may think fit, dispense with the attendance of such accused for such period as it may think fit, and proceed with the trial in his absence.

Power of Special Courts to deal with refractory accused.

(2) Where a plea is required in answer to a charge from an accused whose attendance has been dispensed with under sub-section (1), such accused shall be deemed not to plead guilty.

(3) An order under sub-section (1) dispensing with the attendance of an accused shall not affect his right of being represented by a pleader at any stage of the trial, or of being present in person if he has become capable of appearing, or appears in Court and undertakes to behave in an orderly manner.

(4) Notwithstanding anything contained in the Code, no finding, sentence or order passed in a trial before a Court constituted under this Ordinance shall be held to be illegal by reason of any omission or irregularity whatsoever arising from the absence of any or all of the accused whose attendance has been dispensed with under sub-section (1).

50. Notwithstanding anything contained in the Indian Evidence Act, 1872, when the statement of any person has been recorded by any Magistrate, such statement may be admitted in evidence in any trial before a Court constituted under this Ordinance if such person is dead or cannot be found or is incapable of giving evidence, and the Court is of opinion that such death, disappearance or incapacity has been caused in the interests of the accused.

51. A Court constituted under this Ordinance shall not be required to grant an adjournment for the purpose of securing the attendance of a legal practitioner if, in the opinion of the Court, such adjournment would cause unreasonable delay in the disposal of the case.

52. Notwithstanding the provisions of the Code, or of any other law for the time being in force, or of anything having the force of law by whatsoever authority made or done, there shall, save as provided by this Ordinance, be no appeal from any order or sentence of a Court constituted under this Ordinance and, save as aforesaid, no Court shall have authority to revise such order or sentence, or to transfer any case from any such Court, or to make any order under section 491 of the Code or have any jurisdiction of any kind in respect of any proceedings of any such Court.

53. The provisions of the Code and of any other law for the time being in force, in so far as they may be applicable and in so far as they are not inconsistent with the provisions of this Ordinance, shall apply to all matters connected with, arising from or consequent upon a trial by special criminal courts constituted under this Ordinance.

CHAPTER V.

SPECIAL PROVISIONS AGAINST INSTIGATION TO THE ILLEGAL REFUSAL OF THE PAYMENT OF CERTAIN LIABILITIES.

54. (1) The Local Government may, by notification in the local official Gazette, declare that any part of the province or the whole province shall be a notified area for the purposes of this Chapter.

(2) Such Local Government may further, by the same or by subsequent notification, declare that in such notified area land-revenue or any sum recoverable as arrears of land-revenue, or any tax rate, cess or other due or amount payable to Government or to any local authority, or rent of agricultural land, or anything recoverable as arrears of or along with such rent, shall be a notified liability.

55. Whoever, by words either spoken or written, or by signs or by visible representations, or otherwise, instigates, expressly or by implication, any person or class of persons not to pay or to defer payment of any notified liability.

and whoever does any act, with intent or knowing it to be likely that any words, signs or visible representations containing such instigation shall thereby be communicated directly or indirectly to any person or class of persons, in any manner whatsoever,

shall be punishable with imprisonment which may extend to six months, or with fine, or with both.

56. No Court shall take cognizance of any offence punishable under this Chapter except upon a report in writing of facts which constitute such offence made by a police officer not below the rank of sub-inspector.

57. (1) Any person to whom an arrear of a notified liability is due may apply in writing to the Collector to realise it, and the Collector may, after satisfying himself that the amount claimed is due, proceed to recover it as an arrear of land-revenue, in accordance with the law applicable to the recovery of arrears of land-revenue in the area concerned.

(2) Nothing in this section shall prevent any person to whom an arrear of a notified liability is due from recovering it in accordance with the law applicable to the recovery of such arrear.

(3) Any person from whom an amount has been recovered under this section in excess of the amount due from him may recover such excess in accordance with law from the person on whose behalf the Collector has realised it.

CHAPTER VI.

SPECIAL PROVISIONS AGAINST ASSOCIATIONS DANGEROUS TO THE PUBLIC PEACE.

58 In this Chapter, unless there is anything repugnant in the subject definitions. or context,—

(a) "notified place" means a place notified under sub-section (1) of section 59;

(b) "place" includes also a house, building, tent and vessel; and

(c) "unlawful association" means an unlawful association within the meaning of section 15 of the Indian Criminal Law Amendment Act, 1908, and includes an association which has been declared to be unlawful by the Governor General in Council under the powers conferred by section 64.

XIV of 1908.

59. (1) The Local Government may, by notification in the local official Gazette, notify any place which in its opinion is used for the purposes of an unlawful association.

(2) The District Magistrate, or any officer authorised in this behalf in writing by the District Magistrate, may thereupon take possession of the notified place and evict therefrom any person found therein, and shall forthwith make a report of the taking of possession to the Local Government.

(3) A notified place whereof possession is taken under sub-section (2) shall be deemed to remain in the possession of Government so long as the notification under sub-section (1) in respect thereof remains in force.

60. (1) The District Magistrate or officer taking possession of a notified place shall also take possession of all movable property found therein, and shall make a list thereof and submit it, with a report of the taking of possession of such movable property, to the Local Government.

(2) If, in the opinion of the Local Government, any articles specified in the list are or may be used for the purposes of the unlawful association, the Local Government may, by order in writing, declare such articles to be forfeited to His Majesty, and may give such directions for the disposal thereof as it may think fit.

(3) Any articles specified in the list which are not so forfeited may be delivered by the District Magistrate to any person whom he considers to be entitled to possession thereof, or may be retained in the possession of Government and used in such manner as the District Magistrate may direct.

61. Any person who enters, or remains upon a notified place without the permission of the District Magistrate, or of an officer authorised by him in this behalf, shall be deemed to commit criminal trespass, and, notwithstanding anything contained in the Code any such offence of criminal trespass shall be cognizable and non-bailable.

62. Before this Ordinance ceases to have effect, or before a notification under sub-section (1) of section 59 is cancelled, the Local Government shall give such general or special directions as it may deem requisite regulating the relinquishment by Government of possession of notified places and of movable property found thereon whereof possession has been retained under sub-section (3) of section 60.

63. (1) Where the Local Government is satisfied, after such inquiry as it may think fit, that any monies, securities or credits are being used or are intended to be used for the purposes of an unlawful association, the Local Government may, by order in writing, declare such monies, securities or credits to be forfeited to His Majesty.

(2) A copy of an order under sub-section (1) may be served on the person having custody of the monies, securities or credits, and on the services of such copy such person shall pay or deliver the monies, securities or credits to the order of the Local Government:

Provided that, in the case of monies or securities, a copy of the order may be endorsed for execution to such officer as the Local Government may select, and such officer shall have power to enter upon and search for such monies and securities in any premises where they may reasonably be suspected to be, and to seize the same.

(3) Where the Local Government has reason to believe that any person has custody of any monies, securities or credits which are being used or are intended to be used for the purposes of an unlawful association, the Local Government may, by order in writing, prohibit such person from paying, delivering, transferring or otherwise delaying in any manner whatsoever with the same, save in accordance with the written orders of the Local Government. A copy of such order shall be served upon the person to whom it is directed.

(4) The Local Government may endorse a copy of an order under sub-section (3) for investigation to any officer it may select, and such copy shall be warrant whereunder such officer may enter upon any premises of the person to whom the order is directed, examine the books of such person, search for monies and securities, and make inquiries from such person, or any officer, agent or servant of such person, touching the origin of and dealings in any monies, securities or credits which the investigating officer may suspect are being used or are intended to be used for the purposes of an unlawful association.

(5) A copy of an order under this section may be served in the manner provided in the Code for the service of a summons, or, where the person to be served is a corporation, company, bank or association of persons, it may be served on any secretary, director or other officer or person concerned with the management thereof, or by leaving it or sending it by post addressed to the corporation, company, bank or association at its registered office, or, where there is no registered office, at the place where it carries on business.

(6) Where an order of forfeiture is made under sub-section (1) in respect of any monies, securities or credits in respect of which a prohibitory order has been made under sub-section (3), such order of forfeiture shall have effect from the date of the prohibitory order, and the person to whom the prohibitory order was directed shall pay or deliver the whole of the monies, securities, or credits forfeited, to the order of the Local Government.

(7) Where any person liable under this section to pay or deliver any monies, securities, or credits to the order of the Local Government refuses or fails to comply with any direction of the Local Government in this

behalf, the Local Government may recover from such person, as arrears of land-revenue or as a fine, the amount of such monies or credits or the market value of such securities.

(8) In this section, "security" means a document whereby any person acknowledges that he is under a legal liability to pay money, or whereunder any person obtains a legal right to the payment of money; and the market value of any security means the value as fixed by any officer or person deputed by the Local Government in this behalf.

64. (1) If the Governor-General in Council is of opinion that any association interferes with the administration of law and order, or that it constitutes a danger to the public peace, he may, by notification in the Gazette of India, declare such association to be unlawful.

Power of Governor-General in Council to declare associations to be unlawful.

(2) An association in respect of which such declaration has been made shall be an unlawful association for the purposes of the Indian Criminal Law Amendment Act, 1908, throughout the whole of British India.

XLV of 1908.

65. Every report of the taking possession of property and every declaration of forfeiture made or purporting to be made under this Chapter, shall, as against all persons be conclusive proof that the property specified therein has been taken possession of by Government or has been forfeited, as the case may be.

Effect of reports and declarations.

CHAPTER VII.

SPECIAL PROVISIONS AGAINST CERTAIN FORMS OF INTIMIDATION.

66. For the purposes of this Chapter, a person is said to molest another person who,—

Definition of "molest a person who,—"

- (a) with a view to cause such other person to abstain from doing or to do any act which such other person has a right to do or to abstain from doing, obstructs or uses violence to or intimidates such other person or anyone in whom such person is interested, or loiters, at or near a house where such person or anyone in whom such person is interested resides or works carries on business or happens to be, or persistently follows him from place to place, or interferes with any property owned or used by him or deprives him of hinders him in the use thereof, or
- (b) loiters at or near the place where such other person carries on business, in such a way or with intent that any person may thereby be deterred from entering or approaching or dealing at such place, or does any other act at or near such place which may have a like effect.

67. Whoever molests or abets the molestation of any person shall be punishable with imprisonment which may extend to six months, or with fine, or with both.

Punishment for molestation.

68. No Court shall take cognizance of any offence punishable under section 67 except upon a report in writing of facts which constitute such offence made by a police officer.

Special rule of procedure.

69. For the purposes of this Chapter,—

- (a) a person is said to "boycott" another person who refuses to deal or do business with, or to supply goods to, or let a house or land to, or to render any customary service to such person or any person in whom such person is interested, or refuses to do so on the terms on
- definition of "boycott-ing".

which such things would be done in the ordinary course, or abstains from such professional or business relations as he would ordinarily maintain with such person; and

- (b) a "public servant" includes a public servant as defined in section ^{Definition of "public servant".} 21 of the Indian Penal Code, and a servant ^{of a local authority, and a person belonging to any class of persons which the Local Government may, by notification in the local official Gazette, declare to be public servants for the purposes of this Chapter.} **XLV of 1869.**

70. Whoever boycotts or abets the boycotting of a public servant, or threatens a public servant with boycotting, shall be punishable with imprisonment which may extend to six months, or with fine, or with both:

Provided that no person shall be convicted under this section if the Court is satisfied that his acts were not intended to prejudice the public servant boycotted, or proposed or threatened to be boycotted, in the discharge of the duties of his office or to cause such public servant to terminate or withhold his services in the discharge of such duties, or to commit a breach of discipline.

71. (1) An offence punishable under section 70 shall be non-cognizable and bailable, and notwithstanding anything contained in the Second Schedule to the Code, a case relating to such an offence shall, for the purposes of section 204 of the Code, be deemed to be one in which a warrant should issue in the first instance.

(2) Where information is given to the officer in charge of a police-station of the commission within the limits of such station of an offence punishable under section 70, he shall deal with it in the manner provided in section 154 of the Code, and he shall investigate the case as if he had received an order to that effect from a competent Magistrate.

72. Whoever with intent to annoy any person, or with the knowledge that annoyance is likely to be caused to any person, performs or takes part in or abets the performance of any mock ceremony resembling any ceremony associated with or consequent upon death shall be punishable with imprisonment which may extend to six months, or with fine, or with both.

73. No Court other than a Court of a Presidency Magistrate or Magistrate of the first class or of a Special Judge or Special Magistrate constituted under this Ordinance shall take cognizance of or try any offence under this Chapter.

CHAPTER VIII.

SUPPLEMENTAL.

74. Notwithstanding anything contained in the Code, any offence punishable under this Ordinance shall, save as otherwise specially provided in this Ordinance, be cognizable and non-bailable.

75. Notwithstanding anything contained in the Code, all offences punishable under sub-section (1) of section 17 of the Indian Criminal Law Amendment Act, 1908, shall be cognizable and non-bailable. **XIV of 1908.**

76. (1) The Local Government may, by notification in the local official Gazette, declare that any offence punishable under section 160, 186, 187, 188, 189, 190, 227, 228, 295A, 298, 505, 506, 507 or 508 of the Indian Penal Code when committed in any area specified in the notification, shall, notwithstanding **XLV of 1869**

anything contained in the Code, be cognizable and non-bailable, and thereupon the Code shall, while such notification remains in force, be deemed to be amended accordingly.

XLV of 1860, (2) Notwithstanding anything contained in section 195 or section 196 of the Code, in any area in which a notification under sub-section (1) in respect of section 186, 187, 188, 228, 295A, 505 of the Indian Penal Code is in force, any Court otherwise competent to take cognizance of such offence may take cognizance of such offence upon a report in writing of facts constituting such offence made by any police officer, but shall not proceed with the trial unless it has received a complaint in respect of such offence under section 195 or section 196 as the case may be, and the absence of such complaint shall be reasonable cause, within the meaning of section 344 of the Code, for postponing the commencement of the trial and for remanding the accused.

XXIII of 1931, 1931. Temporary amendment of section 4, Act XXIII of 1931. 77. So long as this Ordinance remains in force, in sub-section (1) of section 4 of the Indian Press (Emergency Powers) Act, 1931, after clause (b), the following words and clauses shall be deemed to be inserted, namely:—

“or which tend, directly or indirectly,—

- (c) to seduce any officer, soldier, sailor or airman in the military, naval or air forces of His Majesty or any police officer from his allegiance or his duty, or
- (d) to bring into hatred or contempt His Majesty or the Government established by law in British India or the administration of justice in British India or any Indian Prince or Chief under the suzerainty of His Majesty, or any class or section of His Majesty's subjects in British India or to excite disaffection towards His Majesty or the said Government or any such Prince or Chief, or
- (e) to put any person in fear or to cause annoyance to him and thereby induce him to deliver to any person any property or valuable security, or to do any act which he is not legally bound to do, or to omit to do any act which he is legally entitled to do, or
- (f) to encourage or incite any person to interfere with the administration of the law or with the maintenance of law and order, or to commit any offence, or to refuse or defer payment of any land-revenue, tax, rate, cess or other due or amount payable to Government or to any local authority, or any rent of agricultural land or anything recoverable as arrears of or along with such rent, or
- (g) to induce a public servant or a servant of local authority to do any act or to forbear or delay to do any act connected with the exercise of his public functions or to resign his office, or
- (h) to promote feelings of enmity or hatred between different classes of His Majesty's subjects, or
- (i) to prejudice the recruiting of persons to serve in any of His Majesty's forces, or in any police force, or to prejudice the training, discipline or administration of any such force.”

and the provisions of that Act shall apply accordingly.

78. Except as provided in this Ordinance, no proceeding or order purporting to be taken or made under this Ordinance shall be called in question by any Court, and to civil criminal proceeding shall be instituted against any person for anything done or in good faith intended to be done under this Ordinance or against any person for any loss or damage caused to or in respect of any property whereof possession has been taken under this Ordinance.

79. Nothing contained in this Ordinance shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence punishable under this Ordinance.

80. (1) Anything done in pursuance of any provision of the Emergency Powers Ordinance, 1932, the Unlawful Instigation Ordinance, 1932, the Unlawful Association Ordinance, 1932, or the Prevention of Molestation and Boycotting Ordinance, 1932, shall, where the corresponding provision of this Ordinance has come into force before the 4th day of July, 1932, be deemed on the expiry of the said Ordinances to have been done in pursuance of the corresponding provision of this Ordinance, and shall have effect, and the provisions of this Ordinance shall have effect, accordingly.

(2) Without prejudice to the generality of the foregoing provision it is hereby expressly provided that—

- (a) this Ordinance shall operate to confer a right of appeal in all cases where an appeal would have lain under any provision of any of the Ordinances specified in sub-section (1), and every appeal pending at the time of the expiry of the said Ordinances, and, subject to the provisions of this Ordinance relating to the presentation of appeals, every appeal made in pursuance of this sub-section shall be heard and decided in accordance with the provisions of this Ordinance;
- (b) this Ordinance shall operate to confer a power to prosecute any person for any offence committed against any provision of any of the Ordinances specified in sub-section (1) and such offence shall be deemed to be an offence committed against the corresponding provision of this Ordinance;
- (c) this Ordinance shall operate to confer a power to continue and complete any trial or proceeding under any provision of any of the Ordinances specified in sub-section (1) which was pending at the time of the expiry of the said Ordinances as if such trial or proceeding were a trial or proceeding begun under the corresponding provision of this Ordinance.

WILLINGDON,

Viceroy and Governor-General.

SIMLA;

The 30th June, 1932.

INDEX.

PAGE.

A

Abdul Ghaflar Khan	13, 15
All-India Congress Committee	4, 7, 23, 25
Aman Sabhas	6, 9
Amnesty for prisoners, proposed	8, 9
Appreciations of political situation	3
Arbitration, proposed Board of	12
Arrests of leaders and others	13, 16, 18, 22, 25
Arrest of Mr. Gandhi	2, 13, 16, 25

B

Bardoli Taluka	14
Bengal Public Security Act	22
Bihar Earthquake, Congress Co-operation in regard to	25
Board of Arbitration	12
Bombay Emergency Powers Act	25
Boycott of foreign goods	6, 9
British Library of Informations	3
Bulletins, official	3

C

Censorship of Correspondence	4, 5
Civil disobedience, withdrawal of	26
Civil disobedience, temporary suspension of	24
Civil disobedience prisoners	9, 23, 27
Communal tension	27
Communique, Government of India	26
Communism	27, 28
Congress Co-operation in Bihar Earthquake relief	25
Congress Parliamentary Party	25
Congress Sessions, prohibition of	22, 23
Congress Working Committee	4, 7, 13, 16
Constitutional reform	8, 9, 19
Conviction of Mr. Gandhi	25
Correspondence, Censorship of	4, 5
Cowasjee Jehangir, Sir	25
Criminal Law Amendment Act, 1908	3, 4, 16, 20, 21, 27
Criminal Law Amendment Act, 1932	20, 21, 27
Criminal Law Amendment Act, 1935	27
Criminal Law Amendment Supplementing Act, The Provincial	20

D

Defence Associations	3
Delhi Settlement	8, 9, 10, 12, 14, 18
De Montmorency, H. E. Sir Geoffrey, Speech by	10
Deputation to H. E. the Viceroy <i>re</i> Press Ordinance	5
Discontinuance of movement	26

E

Earthquake in Bihar, Congress Co-operation	25
Emergency Powers Act, Bombay	25
Emergency Powers Ordinance	13, 16, 18
Executive Council, Sub-Committee of	3

F

Fasts of Mr. Gandhi	24, 25
Financial aid to movement, prevention of	20, 21
Foreign goods, measures regarding boycott of	6, 9
Forfeiture of property, funds etc.	4, 7, 16, 18, 21, 27, 28
Funds, forfeiture of property etc.	4, 7, 16, 18, 27, 28
Funeral ceremonies, Mock	17

G

Gandhi, Mr.	2, 8, 9, 12, 13, 14, 16, 24, 25, 26
Gandhi, Mr., arrest of	2, 13, 16, 25
Gandhi's, Mr., march to break salt laws	2
Government servants	22
Gujerat	6, 13

H

Harijan movement	24, 25
High Court, Bombay, Judgements of	21
Hindustani Seva Dal	27

I

Illegal associations	3, 4, 21
Independence resolution	1, 15 and App. I.
Indictment of Congress, draft	13
Internment of Mr. Gandhi	2, 3
Interviews with Mr. Gandhi	24
Intimidation Ordinance	6, 17

PAGE.

19

13

13

7, 14

3

2

2

25

25

Appendix III.

II.

25

6626

8. 25.

27184. 11. 14.6

	PAGE.
Political situation, appreciations of the	3
Poona Conference	24
Press, control of	5, 6
Press Act	28
Press Ordinances	5, 6
Prisoners, release of	8, 9, 23, 27
Propaganda, machinery for official	3
Prosecutions	3, 10, 12, 13
Provincial enactments to control movement	20, 28
Public feeling	19
Publicity work	3

17

62

R

Red Shirt organization	15, 27
Release of prisoners	8, 9, 10, 12, 14, 18
Release of leaders from jail	9
Rent, realization of	7, 8
Revolutionary organizations, ban on	26, 27
Revolutionary songs	21
Revival of civil disobedience in 1932	16
Round Table Conference	8, 9, 12, 14
Rural areas, Congress position in	13, 19

S

Sabhas, Kirti Kisan	13
Salt, confiscation of illicit	2
Sapru, Sir Tej Bahadur	8
Settlement, Delhi	8, 9, 10, 12, 14, 18
Seva Dal, Hindustani	27
Sikh feeling	19
Special powers, policy in regard to	2
Special Powers Ordinance, 1932	18, 19, 20
Speech by H. E. Sir Geoffrey De Montmorency	10
State Prisoners Regulation, Bombay	3
Suspension, temporary, of civil disobedience movement	24
Swaraj Party, Congress	25

T

Truce, Delhi Settlement regarded as	
---	--

U

Unauthorised News-sheets and News papers	5, 6
United Provinces	13, 14, 16
Unlawful Associations Ordinances	14, 16, 17, 18
Unlawful bodies	1, 3, 4
Unlawful Instigation Ordinances	16, 17, 18

V

Viceroy, interviews between Mr. Gandhi and	9, 14, 16, 24
Volunteers	23

W

Whipping of civil disobedience prisoners	24
Withdrawal of movement	26

Y

Youth Associations	13
------------------------------	----

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